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CONTENTS

REPORT OF SPECIAL COMMISSION ON THE REGULATION OF THE LIQUOR TRAFFIC IN MASSACHUSETTS

	PAGE
INTRODUCTORY NOTE	<i>Inside of Front Cover</i>
MESSAGE OF GOVERNOR ELY TRANSMITTING THE REPORT	1
REPORT OF THE COMMISSION	4
THE DRAFT ACT RECOMMENDED BY THE COMMISSION ENTITLED, "AN ACT TO PROMOTE AND SAFEGUARD PUBLIC SAFETY, HEALTH AND GOOD ORDER IN CONNECTION WITH THE SALE OF ALCOHOLIC BEVERAGES"	19

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INTRODUCTORY NOTE.

In view of the far-reaching importance of the subject of the regulation of the liquor traffic now facing the entire country, and of the fact that the first news reports appear to have led to some misunderstanding, reprints of the report of the special commission, now pending before the legislature, have been obtained from the state printer and are here presented for the consideration of the bar.

Both the report of the commission and the governor's introductory message deserve the most thoughtful and impartial consideration of the bar and of the community. The combination of the political activity and the excessive desire for profit of the liquor interests contributed largely to the conditions which induced the experiment of national prohibition. The danger now which faces the movement for a reasonably regulated return to a legalized system arises from the same forces which brought on the prohibition amendment and the deplorable conditions resulting from it—the activities of the extremists on both sides of the liquor question.

The suggestion of a controlled system recommended by the commission appears from the newspapers to have inspired a strange coalition between extreme wets and extreme dries in opposition to the plan recommended. Under these circumstances, the more temperate members of the community should take control of the situation and give Massachusetts an opportunity to offer a constructive plan as an example to the country in dealing with one of the most difficult problems in history.

The substance of the plan recommended by the commission is not a new theoretical plan at all. It is, as we understand it, similar to the plan in practical operation in most of the Canadian provinces since they abandoned the prohibition policy and is a *modification* of the system which has been in successful operation in Sweden for a still longer period.

F. W. GRINNELL.

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HOUSE No. 1300

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT, BOSTON, March 16, 1933.

To the Honorable Senate and House of Representatives:

Anticipating that the question of repeal of the Eighteenth Amendment would probably be submitted to the people of the Nation during the current year, and in order that Massachusetts might show her colors as a Commonwealth devoted to law and order, sobriety and temperance, as an example to States which might waver upon the subject of repeal, I appointed a Commission of distinguished citizens to study the question of liquor regulation, draft suitable legislation and report their findings to me. The report has been made and I now submit it to you, together with a draft of the proposals, for your consideration.

I confess to you that the tide of repeal is running stronger and faster than anticipated. The immediate enactment of legislation modifying the Volstead Act to permit alcoholic malt beverages, requires our immediate and speedy attention to the subject of proper regulation. We would fail the people of Massachusetts if, through delay, the benefits of that Federal legislation were denied them when the Federal modification becomes effective. That legislation precipitates the issue and compels this message, and urges its speedy consideration.

Briefly, the plan proposed calls for the creation of an unpaid commission with state-wide control of the liquor traffic. It provides for the handling of imported alcoholic beverages through a corporation under State regulation privately financed. It provides that this corporation shall appoint its agents under license to deal in such

beverages. It provides that malt beverages and wines shall be sold for consumption on the premises by carefully regulated hotels, cafés and clubs. It provides that no person can purchase intoxicating liquors having a percentage of more than 20% alcoholic content, except through the purchase of a permit and from authorized licensees of the controlling corporation. It limits the profit which such controlling corporation may make and regulates the license fees according to the business of the licensee.

With the general principles of this report, I am in hearty accord. It must not be said in any doubtful State upon this question, that the wet States by legislative enactment give credence to the argument that the repeal of the Eighteenth Amendment means the return of the saloon, the return of corrupt politics, a debauched administration, or the increase of drunkenness. If we should legislate in such a manner as to warrant such criticism, the repeal of the Eighteenth Amendment would be jeopardized. If we were to legislate in such a manner, the repeal of the Eighteenth Amendment would be jeopardized and the welfare of the people of Massachusetts harmed.

I desire that Massachusetts should be first among the States, not in ratification of the Amendment necessarily, but in the constructive set-up of her liquor control laws, in the character of her legislation, — so do you. I further desire that with the privilege of indulging in the use of alcoholic beverages under the modified Volstead Act, we shall do so under the same control that we expect to make permanent upon the repeal of the Eighteenth Amendment.

The report speaks for itself. It is a constructive and conscientious effort to meet the objective sought. The plan has been evolved as the result of extensive investigation, the presentation of numerous plans, and the contact of forceful minds upon a problem which has troubled the American people through all of their history. I sincerely hope it may meet with your approval. I am not unaware of the fact that individual opinions may differ with the

conclusion of the Commission, or that arguments may be advanced which are applicable to the exclusive conditions of Massachusetts and the desires of her people, indicating a contrary method of procedure. But I urge you in your consideration of this question to have in mind the effect of your action upon other jurisdictions and the ultimate good of the people of the United States. This legislation should be upon our statute books in time to permit the executive branch of your government to set up the necessary machinery and exercise the required control for the manufacture and sale of malt beverages under the provisions of the modified Volstead Act.

JOSEPH B. ELY.

The Commonwealth of Massachusetts

REPORT MADE TO HIS EXCELLENCY THE GOVERNOR BY A SPECIAL COMMISSION APPOINTED BY HIM.

MARCH 16, 1933.

His Excellency, JOSEPH B. ELY, *Governor of the Commonwealth.*

SIR:—The Commission appointed by Your Excellency to consider the problem with which the government of the Commonwealth will be faced when the Eighteenth Amendment to the Constitution of the United States has been repealed, and to recommend for its consideration statutory provisions for the conduct and regulation of traffic in alcoholic beverages, beg to submit for your consideration and, subject to your approval, for the consideration of the General Court, the following report:

From the historical treatise accompanying this report as Appendix B, prepared by Mr. Wendell D. Howie, largely from original sources in the State Library, it is apparent that the Commonwealth, during its three hundred years of life, has tried many methods of dealing with this traffic. Of its various experiments, two stand out conspicuously: one, that of Prohibition, from 1852 to 1869, as the great failure; and that of the local option license system, from about 1875 to 1920, as the nearest approach to a success.

With the earlier example of the breakdown of State Prohibition and the later example of the worse breakdown of Federal Prohibition, the Commission felt that absolute prohibition of the traffic in alcoholic beverages was no solution of the problem. This conclusion was confirmed by an examination of the results of many

popular referendum votes of the people of the Commonwealth in favor of some form of legalized opportunity for the exercise of individual liberty in the purchase of beverages containing more or less of alcohol. This conclusion was, to a minor degree, further strengthened by the failure of any substantial advocacy of Prohibition at the public hearings given by the Commission soon after its appointment.

With negligible exceptions, and only for brief periods and in no comprehensive way, the rather outstanding exception in the earnest and sincere efforts of the Commonwealth to eliminate the more flagrant evils of this traffic, while recognizing its necessity so long as the age-old human appetite continued, was the failure effectively to strip the business of its possibility of inordinate profit to those engaged in it, or to divert that profit to the Commonwealth for the benefit of all its people.

The principles which have influenced the Commission in preparing the plan embodied in the accompanying bill, submitted with this report as Appendix A, have been:

First. — The recognition that a large majority of our fellow citizens desire to exercise their freedom of choice as to whether they will use or abstain from alcoholic beverages; that they believe that indulgence in such beverages is a matter for their own individual consciences and involves neither moral turpitude nor evidence of any unsocial attitude; and that nevertheless an appreciable number of people are unable to exercise the necessary self-restraint to save themselves from the evils of over-indulgence, especially if exposed to undue temptation.

Second. — That there is a great difference between the inherent harmfulness of different kinds of alcoholic beverages, and that this difference should not only be recognized in any statutory system, but should be utilized to lessen the evils of the traffic by encouraging and facilitating the sale and use of the less injurious kinds of beverages by such reasonable restrictions on the sale of the more injurious kinds as will not extend or even continue the

deplorable illicit traffic in them which has developed to such an alarming extent under Federal Prohibition. This principle was well stated in a letter of December 13, 1818, to a French friend by Thomas Jefferson, as follows:

No nation is drunken where wine is cheap; and none sober, where the dearness of wine substitutes ardent spirits as the common beverage. It is, in truth, the only antidote to the bane of whiskey. Fix but the duty at the rate of other merchandise, and we can drink wine here as cheap as we do grog; and who will not prefer it? Its extended use will carry health and comfort to a much enlarged circle. Every one in easy circumstances (as the bulk of our citizens are) will prefer it to the poison to which they are now driven by their government.

Third. — That, because of the inherent evils to some persons in the use of alcoholic beverages, this commodity cannot be classed with the usual and everyday commodities of trade and commerce, but that some restrictions and much regulation are necessary to lessen the evils of this particular commodity while admitting the necessity of allowing some traffic in it. The accompanying bill represents the belief of the Commission that a wider application of the system of licenses and permits than has ever been attempted hitherto in this Commonwealth will produce this desirable result.

Fourth. — That one of the greatest obstacles to the success of even the best Massachusetts system of regulation — that of a licensed traffic between 1875 and 1920 — was the possibility and the general belief that the traffic afforded opportunities for great, if not inordinate, profits to those engaged in it. No attempt was made to curb these profits, but the so-called high license fees were adopted to divert some of the profits to the public treasury. The only effect of that attempt was to increase the cost to the consumer and to lead, and oftentimes force, the dealer to seek in many ways to stimulate the demand for and indulgence in such beverages. The bill submitted herewith attempts to confine the profits of those engaged in the business only to a reasonable return for conducting it, upon the same principle that the Commonwealth has

successfully applied for many years to those conducting its public utilities. This aim can be attained by regulation of the retail prices; while the wholesale profits, except for a moderate return on the capital invested, may, as the policy of the Commonwealth from time to time shall determine, be either eliminated entirely or diverted to the treasury of the Commonwealth and the treasuries of its cities and towns.

Fifth. — That the futility of any law that does not meet the reasonable requirements of the public for alcoholic beverages has been repeatedly demonstrated, and that, conversely, the necessity of an effective law should appeal to the judgment of a very substantial majority of the people if reasonable in its provisions, not unduly oppressive, and adequate to supply the public with what it wants.

The plan embodied in the accompanying bill is in general based on the above considerations. The distinctions between hard liquors on the one hand and wines and malt beverages on the other, and the consequent difference in the mode of dealing in them, appears in the definitions as well as in other provisions of the bill. There is no attempt anywhere in the bill to prohibit the sale or use of any form of beverages, but the method of sale varies with the nature of the beverage, and it is sought to prevent the use of intoxicating or hard liquors in public places.

The main features of the plan are —

1. Distinction between different varieties of alcoholic beverages;
2. Absolute control through a State Commission of the traffic in alcoholic beverages;
3. A State controlled corporation, with private capital, to handle all traffic in hard liquors and wholesale traffic in wines and imported malt beverages;
4. Sales of alcoholic beverages;
5. A comprehensive system of licenses and permits;
6. Provision for early sale of malt beverages in accordance with any modification of the Volstead law.

1. DISTINCTION BETWEEN DIFFERENT VARIETIES OF ALCOHOLIC BEVERAGES.

This distinction is made plain in the definitions contained in the accompanying bill. Alcoholic beverages are placed in three classes: first, intoxicating liquors, which cover all hard liquors, of which whiskey is an outstanding example, and all wines containing over 20 per cent of alcohol; second, wines containing less than 20 per cent of alcohol, of which champagnes, Burgundies, and clarets are perhaps the best known vintages; third, malt beverages, among which beer and ale are the most familiar and popular examples.

In reading the accompanying bill the classification made by the definitions in it must be kept in mind. Under the old Massachusetts law all beverages containing any appreciable quantity of alcohol were indiscriminately called intoxicating liquors. In the bill submitted herewith for your consideration, "intoxicating liquors" means only what are in common parlance called hard liquors. The term in the new bill corresponding to the alcoholic liquors of the old law is "alcoholic beverages." These distinctions seem to your Commission of much importance and lie at the foundation of many of the provisions of the bill for regulating the traffic generally in alcoholic beverages.

2. ABSOLUTE CONTROL THROUGH A STATE COMMISSION OF THE TRAFFIC IN ALCOHOLIC BEVERAGES.

The bill provides for the appointment by the Governor, with the advice and consent of the Council, of a Commission, unpaid except for attendance fees at meetings, of five members, of whom one must be a woman and of whom not more than three shall be of the same political party, appointed one every other year for terms of ten years. The Commission's chief executive officer is an administrator, to be appointed by the Commission with the approval of the Governor and Council, for a term of five years and at a liberal salary. The

Commission will exercise full control over the Massachusetts Alcoholic Beverages Corporation, the personnel of its directors and stockholders, and the general conduct of its business. The Commission will have authority to fix wholesale and retail prices of alcoholic beverages, and all licenses and permits required by the bill will be issued only under its authority. It is given very broad powers of control and supervision of the entire traffic in alcoholic beverages.

Upon the proper functioning of this Commission will depend largely the success of the plan of the bill. The attainment of this result depends upon the non-political character of its members and their spirit of public service. Except at its inception, only one member will be appointed in one gubernatorial term. Ordinarily, therefore, only two members will be appointed by the same Governor. It is believed that an unpaid Commission will afford the appointing power greater opportunity to secure the services of public spirited citizens to direct the policy and to administer satisfactorily the difficult task of controlling the traffic in alcoholic beverages. This belief is based upon the long experience in this Commonwealth in the administration by unpaid boards, with a paid executive responsible to them, of the privately endowed colleges, the public schools, hospitals, and many other public and *quasi* public undertakings. Such a system has proved eminently successful in the conduct of the University in Cambridge for three hundred years, of the Massachusetts General Hospital for over a century, and of the Boston Public Library for almost as long a period, to cite a few of the many examples which might be given.

3. THE STATE CONTROLLED CORPORATION.

The Massachusetts Alcoholic Beverages Corporation will be organized by the Commission with private capital and with a monopoly in dealing in intoxicating liquors and in the wholesale business of dealing in wines and in malt beverages made outside of Massachusetts. All

profits of the corporation beyond the limited dividends provided in the bill and the gradual creation of a reserve fund for the possible retirement of its capital stock, will go to the State treasury. The Commonwealth will at all times have an option to take over the entire stock, at the amount paid in thereon by the stockholders, plus any unpaid dividends at the stipulated rates. As stated under section 2 above, the Commission will exercise very complete control over the conduct by the corporation of its business.

4. SALES OF ALCOHOLIC BEVERAGES.

(a) *Intoxicating Liquors.* — The corporation is given an absolute monopoly of the wholesale sale of all intoxicating liquors, and also of their retail sale through selling agents appointed by it with the approval of the Commission. This monopoly includes the wholesale sale through such agents of all wines, and of all malt beverages not manufactured within the Commonwealth. Only grocers and druggists can be appointed selling agents. They can sell only in original packages and no intoxicating liquors can be sold anywhere to be drunk on the premises.

Individual Permits. — Intoxicating liquors can be sold only to persons holding an individual permit from the Commission for the purchase thereof; but any reputable and otherwise qualified resident over twenty-one years of age, can obtain such an individual permit, the fee for which is \$1.00 a year. A permit is subject to suspension or revocation in the Commission's discretion if its holder shall be convicted of drunkenness, driving a motor vehicle while drunk, stealing a motor vehicle, or using such vehicle in connection with the commission of any felony or in the unlawful transportation or sale of alcoholic beverages. Provision is also made for temporary permits for persons not residents of the Commonwealth. Offices for the issue of the permits are to be established in convenient cities and towns within the Commonwealth.

These individual permits are nothing new in the regu-

lation of traffic in alcoholic beverages. They are required in Ontario, Canada, in Sweden, and in some other countries. In some instances they limit the quantity of beverages which may be purchased by the holders, in effect constituting a rationing allowance. Nothing of this sort is contemplated in the accompanying bill. The Commission recommends these permits, however, as a means for the gradual accumulation of information as to the quantity of intoxicating liquors as defined in the bill required to supply the wants of the people of the Commonwealth. They will serve the further purpose of creating a check on the bootlegging industry which has reached such great proportions since the adoption of Federal prohibition. Purchases of extravagant quantities of intoxicating liquors by any permittee would naturally suggest that the motive might be for their resale rather than for their use by the purchaser for himself, his family, and his guests. It is essential to the success of the plan of the Commission, as it is to that of any plan designed to further the temperate as against the excessive use of alcoholic beverages, that illicit vendors should be suppressed. Otherwise inferior and adulterated, and even poisonous, beverages may be foisted upon the public at unreasonably high prices. When the law provides, as it will if this plan is adopted, for an abundant supply of good and pure beverages at reasonable prices, there can be no legitimate demand for a supply through illicit dealers. It is the belief of the Commission that all good citizens will recognize the reasonableness of the requirement of an individual permit at only a nominal fee as a means to increased temperance, and to the elimination of the bootleg class which has done so much to demoralize the community during the last twelve years and to increase disorder and crime over the country. The facilities for securing the permits are ample under the provisions of the bill, and the requirement for them will constitute no more of a hardship on the citizen than does the requirement for automobile owners' and drivers' licenses, the requirement for hunting and fishing permits, and the

like. Preservation of order and prevention of law violation are the underlying reasons for all such licenses or permits. To the Commission they seem even more essential in the case of the purchase of intoxicating liquors than in the other cases cited.

It should be borne in mind that these individual permits are not required for the purchase of wines or malt beverages either in original packages or to be drunk on the premises in hotels, restaurants, clubs, dining cars, or passenger steamboats, with the single exception that residents in no license towns desiring delivery in such towns of wines and malt beverages must take out such individual permits.

No sales of any alcoholic beverages are permitted to be made by druggists except upon prescription of a physician, unless such druggists are licensed as selling agents or for the sale of malt beverages not to be drunk on the premises. This applies as well to druggists in licensed as in unlicensed territory. The reason for this provision is simple and seems to the Commission sufficient. A resident in any city or town, whether the sale of alcoholic beverages is permitted therein or not, may always, by taking out an individual permit, obtain any kind of alcoholic beverages from any selling agent in the Commonwealth. Consequently, it will be only in case of emergency that necessity might arise for such a purchase from a druggist, and this necessity is met by the physician's prescription provision of the bill.

(b) *Sales of Wines and Malt Beverages not to be drunk on the Premises.* — Any licensed selling agent (grocers and druggists) may sell wines not to be drunk on the premises to any person over eighteen years of age. The proprietor of any grocery, delicatessen, or drug store, licensed by the Commission so to do, may sell to any person over eighteen years of age, malt beverages not to be drunk on the premises. No individual permit is required for the purchase of wines or malt beverages except in the case of a resident in a city or town not permitting their sale within its limits.

(c) *Sales of Wines and Malt Beverages to be drunk on the Premises.* — Wines and malt beverages to be drunk on the premises may be sold in any *bona fide* restaurant, hotel, or club which conforms to the definitions thereof contained in the act, to any person over eighteen years of age. No individual permit is required for such purchases. The bill contains no provision for the return or existence of the old saloon, nor in the opinion of the Commission is any such provision required. In the city of Boston alone there are, at the present time, approximately twenty-five hundred restaurants and fifty hotels, all duly licensed under the Common Victuallers and Inn-holders Statute as properly equipped to provide, and providing, food for their customers. The proprietors of any of these restaurants and hotels complying with the requirements of the bill as to their equipment, facilities and employees may be licensed by the Commission to sell wines and beer to be drunk on the premises. Under the old saloon law, the number of licensed places in Boston was approximately only nine hundred. As these restaurants are scattered over the whole city and furnish entertainment from the most luxurious to the simplest type, it is believed that all classes in the population can readily and easily find places suited to their tastes and purses for obtaining wines and beer. Wines and beer may also be sold in the same way upon dining cars and upon passenger steamboats and at concerts given by corporations not operated for profit.

Intoxicating liquors cannot be sold under any circumstances or in any places to be drunk on the premises, but there is no restriction upon their use in private dwellings.

(d) *Sales by Manufacturers of Alcoholic Beverages.* — Citizens and residents of the Commonwealth, and corporations organized under its laws, may be licensed by the Commissioner to manufacture any kind of alcoholic beverages within the Commonwealth; but, except in the case of malt beverages, their product can be sold only to the Alcoholic Beverages Corporation. Manufacturers of malt beverages, however, may sell them to restaurants,

hotels, clubs, proprietors of grocery, delicatessen, and drug stores, to railroads and owners or operators of vessels, respectively holding valid licenses from the Commission under the provisions of the bill, and they may also sell them for export into other States, where their sale is permitted, and into foreign countries. Such sales must be in bottles filled and sealed only upon the manufacturer's premises, with the exception that the malt beverages may be sold in the wood to any licensee if in the Commission's judgment the nature and extent of the licensee's business justifies his sale of the malt beverages on draft.

(e) *Local Option.* — The principle of local option is preserved in the bill. At each biennial State election three questions are submitted to the voters of each city and town. First, whether selling agents of intoxicating liquors and wines shall be licensed therein. Second, whether the sale of malt beverages not to be drunk on the premises shall be licensed therein. Third, whether the sale of wines and malt beverages to be drunk on the premises shall be licensed therein.

(f) *Holidays, Sundays, etc.* — As only wines and malt beverages may be sold to be drunk on the premises, and only in hotels, restaurants, and clubs, the Committee did not deem it necessary or in conformity with the views of the people of the Commonwealth to prohibit such sales on Sundays, holidays, or election days. Sales, however, of intoxicating liquors, wines and malt beverages not to be drunk on the premises are prohibited on such days. The provision of the old law is also retained authorizing mayors and selectmen to prohibit sales for periods not exceeding three days in times of unusual public excitement or other emergency. For the same reason it seemed unnecessary to retain the old provision regarding sales within certain distances of schools and churches. The hours within which the sales may be made are left to the determination, from time to time, of the Commission as conditions may seem to warrant or require.

5. A COMPREHENSIVE SYSTEM OF LICENSES AND PERMITS.

In a general way, the plan contemplates such a system of licenses that the Commission, and through it the people of the Commonwealth represented by it, shall be in full control of the manufacture, sale, and distribution of alcoholic beverages. It is not the intention, and it is believed it will not be the effect of the bill, to interpose unreasonable or onerous obstacles to any reputable resident obtaining any kind of alcoholic beverages. On the other hand, however, it is the intention of the bill, and it is hoped that its effect may be, to confine the traffic in such beverages in the hands of responsible vendors and in recognized open and valid channels, and to prevent their sale by other persons or in illegitimate ways.

To accomplish this result, all grocers and druggists appointed as selling agents for the corporation must be licensed by the Commission. All manufacturers of alcoholic beverages, all druggists, and all operators of grocery, delicatessen, and drug stores selling malt beverages not to be drunk on the premises, all restaurants, hotels, clubs, railroads, and steamboats selling wines and malt beverages to be drunk on the premises, must be similarly licensed; and all railroads, express companies, vehicles, and drivers thereof, employed in the transportation or delivery of alcoholic beverages, must likewise be licensed by the Commission. The number of licenses of any class is not specifically limited, but with respect to the manufacture of alcoholic beverages there is an indication to the Commission that when the aggregate capacity of the plants of such licensees is sufficient to meet the public demand for their product, no additional manufacturers shall be licensed. No right is given to any applicant for any of the classes of licenses mentioned to demand a license or to retain or renew it against the judgment of the Commission. No licenses for the sale of alcoholic beverages can be granted to aliens, and in

general the provisions of the bill seek to confine the traffic in alcoholic beverages to citizens of good character and reputation.

6. PROVISION FOR EARLY SALE OF MALT BEVERAGES
IN ACCORDANCE WITH ANY MODIFICATION OF THE
VOLSTEAD LAW.

The bill provides that it shall take full effect upon the repeal of the Eighteenth Amendment, but that in case of the modification of the Volstead Act by the Congress, as now seems probable, so much thereof as relates to the appointment and powers of the Commission, the organization of the corporation, the repeal of the present provisions of law relative to the sale of certain non-intoxicating liquors, and the provisions relative to the manufacture, importation, sale, transportation, and licenses and permits therefor, within this Commonwealth, of malt beverages, shall take effect as soon after the passage of the bill as the Federal government shall have made any modification of the Volstead Act, so-called, relative to malt beverages, with a provision that, until the repeal of the Eighteenth Amendment, the definition of malt beverages in the bill shall be 3.2 per cent by weight instead of the 8 per cent by volume contained in the definition in the bill. This provision, it is believed, will authorize the sale of malt beverages, of the sort permitted in the pending bill before the Congress of the United States, in all those cities and towns of the Commonwealth in which, under the local option provisions of the bill, such sale may be permitted.

USE AND DISTRIBUTION OF REVENUE.

The bill provides that the revenue realized from the profits of the corporation and from licenses and permit fees, after defraying the expense of administering the law and of such education in the temperate use of alcoholic beverages as may be authorized, shall be distributed substantially as follows: One-half of the profits of the

corporation shall be retained for the Commonwealth and the other one-half shall be distributed among the cities and towns of the Commonwealth in proportion to their population. License and permit fees for the manufacture, sale and transportation of alcoholic beverages are to be distributed among the several cities and towns in which licenses for the sale of beverages are issued in proportion to the amount of such fees received for the sale of beverages in such cities and towns, respectively; and the amount received for individual permits is to be distributed among the cities and towns from whose residents such fees are received in proportion to the amount of such fees received from the residents of those cities and towns, respectively.

CONCLUSION.

No attempt is made in this report to analyze or state in detail all the provisions of the bill. Only what seemed to the Commission to constitute its more important features and general plan have been mentioned. It is possible that many other features of the bill ought also to have been mentioned, but lack of time in the face of a somewhat unwonted rapidity of action of the Federal Congress has not permitted this. The Commission, therefore, urges that the entire bill be studied before a final judgment is reached as to its adequacy to meet reasonably the situation likely to arise with a repeal of the Eighteenth Amendment.

It should not be forgotten that comparison should be made between conditions which this bill, if enacted, will create and the chaotic conditions under Federal Prohibition, rather than with the conditions which might exist if a wide open law should be enacted in this Commonwealth or if no law at all should be enacted. How far liberalization should go can best be determined after trial. The repeal of State prohibition, for example, in 1869 resulted in such excessive indulgence in alcoholic beverages and consequent disorders as to necessitate a temporary reversion again to prohibition. Such a result

under present conditions would not only be deplorable in itself and an impeachment of our ability to act wisely in the premises, but, worse yet, might be disastrous to our whole scheme of government should it inspire recourse again to Federal Prohibition or even Federal supervision of the handling by the Commonwealth itself and in its own way of this difficult problem of traffic in alcoholic beverages.

BENTLEY W. WARREN.
EDWARD T. KELLY.
THOMAS REED POWELL.
ELIZABETH M. LOVETT.
R. MINTURN SEDGWICK.
MIRIAM VAN WATERS.
JAMES T. MORIARTY.

APPENDIX A.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Three.

An Act to Promote and Safeguard Public Safety, Health and Good Order in Connection with the Sale of Alcoholic Beverages.

1 *Whereas*, Three centuries of experience in this com-
2 monwealth have, in the judgment of the general
3 court, demonstrated that there has always existed
4 and still exists among its people a demand, which
5 cannot be successfully eliminated by federal or state
6 laws, for alcoholic beverages, and that the unregu-
7 lated supply and intemperate use of such beverages
8 result in an increase in lawlessness and crime, im-
9 pair the health of many inhabitants, and lead to
10 efforts on the part of many dealers to secure inordi-
11 nate profits by stimulating, through advertisements
12 and otherwise, the use of such beverages, and by the
13 frequent and harmful adulteration of the beverages
14 themselves, and that such beverages should not, and
15 no longer can, be regarded as an ordinary commodity
16 of commerce, to be manufactured, transported or
17 sold within, imported or brought into, or exported
18 from, this commonwealth, like other and relatively
19 harmless products of manufacture and trade, and
20 that the control, regulation, supervision and pro-
21 hibition of such manufacture, transportation, sale,
22 import and export of alcoholic beverages in the

23 manner and to the extent hereinafter provided are
24 essential to the health, safety, and peace of the in-
25 habitants of the several cities and towns, to the
26 preservation of order therein, to the lessening of
27 lawlessness, crime, and fatal and other accidents
28 upon the interstate and other public highways, rail-
29 roads, airways, and shipping routes of the common-
30 wealth, and to other legitimate objectives for the
31 exercise of the police power of the commonwealth
32 intended hereby to be attained.

33 *Whereas*, The deferred operation of this act would
34 in part defeat its purpose to enable the common-
35 wealth to take immediate advantages of certain legis-
36 lation by congress amending the laws enacted to en-
37 force the eighteenth amendment to the constitution
38 of the United States, therefore this act is hereby
39 declared to be an emergency law, necessary for the
40 immediate preservation of the public health and
41 convenience.

*Now, therefore, be it enacted by the Senate and House of
Representatives in General Court assembled, and by the
authority of the same, as follows:*

1 SECTION 1. Section three of chapter twenty-two
2 of the General Laws, as appearing in the Tercentenary
3 edition thereof, is hereby amended by striking out,
4 in the fifth line, the word "and", and by adding at
5 the end thereof the words:—, and the alcoholic
6 beverages control commission,— so as to read as
7 follows:— *Section 3.* The commissioner shall be
8 the executive and administrative head of the de-
9 partment. There shall be in the department a di-
10 vision of state police under his own immediate
11 charge, a division of inspection under the charge of

12 a director to be known as chief of inspections, a
13 division of fire prevention under the charge of a di-
14 rector to be known as the state fire marshal, and the
15 alcoholic beverages control commission.

1 SECTION 2. Said chapter twenty-two is hereby
2 further amended by inserting after section twelve,
3 as so appearing, the following two new sections: —

4 *Section 12A.* There shall be in the department
5 a commission to be known as the Alcoholic Bever-
6 ages Control Commission, which shall have general
7 supervision of the conduct of the business of manu-
8 facturing, importing, exporting, storing, transport-
9 ing and selling intoxicating liquors, wines, and
10 malt beverages, including the power to fix wholesale
11 and retail prices of all such commodities to be sold
12 within the commonwealth or to be imported or
13 brought into or exported from the commonwealth,
14 and to raise or lower such prices in whole or in part
15 from time to time and at any time, and to issue,
16 renew, cancel and revoke all such licenses and per-
17 mits as provided in chapter one hundred and thirty-
18 eight.

19 The commission shall consist of five unpaid mem-
20 bers who shall be originally appointed by the gov-
21 ernor, with the advice and consent of the council,
22 for two, four, six, eight and ten years, respectively,
23 one of whom shall be a woman and not more than
24 three of whom shall be members of the same political
25 party. Upon the expiration of the term of office of
26 a member, a successor shall be appointed in the
27 manner aforesaid for ten years. The governor shall,
28 with the advice and consent of the council, origi-
29 nally, and also upon making any subsequent appoint-

30 ment to the commission, designate the chairman
31 of the commission, and may, with such consent,
32 remove any member thereof.

33 The commission shall present to the governor as
34 soon as may be after the end of each calendar year
35 a full report of its action and of the conduct and
36 condition of traffic in alcoholic beverages during
37 such year, together with recommendations of such
38 legislation as it deems necessary or desirable for
39 the better regulation and control of such traffic and
40 for the promotion of temperance in the use of such
41 beverages.

42 The members shall receive their necessary travel-
43 ing and other expenses while in the performance of
44 their official duties, and nominal fees of not more
45 than twenty nor less than ten dollars, as determined
46 by the governor and council, for each day's attend-
47 ance at meetings.

48 *Section 12B.* Subject to the approval of the
49 governor and council, the commission may appoint
50 an administrator for a term of five years at a salary
51 of not more than ten thousand dollars (payable from
52 the state treasury), a counsel and attorneys, a
53 secretary and such other officers, assistants, ex-
54 perts, agents, clerks and employees, and at such
55 compensation, as it deems from time to time neces-
56 sary or desirable in carrying out the provisions of
57 this act. The commission may at any time remove
58 the administrator whenever it votes that such re-
59 moval is desirable in the public interest. The
60 commission may also, subject to any applicable
61 provisions of law relative to the civil service, remove
62 any other officers, assistants, experts, agents, clerks
63 and employees as it deems from time to time neces-

64 sary or desirable in carrying out the provisions of
65 this act.

1 SECTION 3. The General Laws are hereby
2 amended by inserting in chapter one hundred and
3 thirty-eight the following new chapter, to be num-
4 bered one hundred and thirty-eight A and to be
5 entitled "ALCOHOLIC BEVERAGES."

CHAPTER 138A.

ALCOHOLIC BEVERAGES.

DEFINITIONS.

6 Section 1. In this act, unless the context other-
7 wise requires, the following words shall have the
8 following meanings:

9 "Commission", the Alcoholic Beverages Control
10 Commission.

11 "Corporation", the Massachusetts Alcoholic Bev-
12 erages Corporation.

13 "Alcoholic beverages", any liquid intended for
14 human consumption and containing one half of one
15 per centum or more of alcohol by volume.

16 "Intoxicating liquors", rum, whiskey, gin, brandy,
17 all other distilled alcoholic liquids, and all alcoholic
18 beverages, whether distilled or however otherwise
19 prepared, containing twenty per centum or more of
20 alcohol by volume and intended for human con-
21 sumption.

22 "Wines", all fermented alcoholic beverages made
23 from fruits, flowers, herbs, or vegetables (other than
24 cider made from apples) and containing less than
25 twenty per centum of alcohol by volume and in-
26 tended for human consumption.

27 "Malt beverages", ale, beer, porter, stout, and all

28 other alcoholic beverages manufactured or produced
29 by the process of brewing or fermentation of malt,
30 wholly or in part, or from any substitute therefor
31 and containing not more than eight per centum of
32 alcohol by volume.

33 "Hotel", a building owned or leased and operated
34 by a person holding a duly issued and valid license as
35 an innholder, provided, in the judgment of the com-
36 mission or its designated agents, with adequate and
37 sanitary kitchen and dining room equipment and
38 capacity, and employing such number and kinds of
39 servants and employees as the commission may by
40 regulation prescribe for preparing, cooking, and serv-
41 ing suitable food for its guests, including travelers
42 and strangers and its other patrons and customers,
43 and in addition meeting and complying with all the
44 requirements imposed upon innholders under chapter
45 one hundred and forty of the General Laws.

46 "Restaurant", space, in a suitable building, ap-
47 proved by the commission, leased or rented or
48 owned by a person or corporation licensed as a
49 common victualer under the provisions of chapter
50 one hundred and forty of the General Laws, and
51 provided, in the judgment of the commission or
52 its designated agents, with adequate and sanitary
53 kitchen and dining room equipment and capacity
54 and employing such number and kinds of servants
55 and employees as the commission may by regula-
56 tion prescribe for preparing, cooking and serving
57 suitable food for strangers, travelers and other
58 patrons and customers and in addition meeting and
59 complying with all the requirements imposed upon
60 common victualers under chapter one hundred and
61 forty of the General Laws.

62 "Club", a corporation organized under the pro-
63 visions of chapter one hundred and eighty of the
64 General Laws, owning, hiring, or leasing a building,
65 or space in a building, of such extent and character
66 as in the judgment of the commission may be suit-
67 able and adequate for the reasonable and comfort-
68 able use and accommodation of its members and
69 provided with suitable and adequate kitchen and
70 dining room space and equipment, implements, and
71 facilities, and employing a sufficient number of
72 servants or employees for cooking, preparing and
73 serving food and meals for its members; provided,
74 that such club files with the commission annually
75 within ten days of February first in each year a
76 list of the names and residences of its members,
77 and similarly files within ten days of the election
78 of any additional member his name and address,
79 and that its aggregate annual membership fees or
80 dues and other income, exclusive of any proceeds
81 of the sale of alcoholic beverages, are sufficient to
82 defray the annual rental of its leased or rented
83 premises, or, if such premises are owned by the club,
84 are sufficient to meet the taxes, insurance, repairs,
85 and the interest on any mortgage thereof; and pro-
86 vided, further, that its affairs and management are
87 conducted by a board of directors, executive com-
88 mittee, or similar body chosen by the members at
89 their annual meeting, and that no member or any
90 officer, agent, or employee of the club is paid, or
91 directly or indirectly receives in the form of salary
92 or other compensation, any profits from the dispo-
93 sition or sale of alcoholic beverages to the members
94 of the club or its guests introduced by members
95 beyond the amount of such salary as may be fixed

96 and voted annually within two months of January
97 first in each year by the members or by its directors
98 or other governing body and as reported by the
99 club to the commission within three months of such
100 January first, and as shall in the judgment of the
101 commission be reasonable and proper compensation
102 for the services of such member, officer, agent, or
103 employee.

104 "Selling agent", a person, firm, or corporation
105 appointed by the corporation, and engaged in good
106 faith in the business of a grocer or druggist in a
107 city or town which has voted to permit within its
108 territory the sale of alcoholic beverages, to sell, on
109 behalf of the corporation and upon such commis-
110 sion or other basis of compensation as shall be ap-
111 proved by the commission in each instance, intoxi-
112 cating liquors, wines, and imported malt beverages,
113 not to be drunk on the premises of sale, in sealed
114 bottles, containers, or other original packages: pro-
115 vided, that sales of intoxicating liquors shall be
116 made to such persons only as at the time of each
117 purchase shall present in person or by mail or other
118 manner prescribed by the commission his or her
119 personal permit for endorsement thereon of the
120 quantity, kind and price of the intoxicating liquor
121 purchased.

122 "License", "permit", an authorization in such
123 form and containing such provisions as may be pre-
124 scribed from time to time by the commission and
125 subject to all the incidents and disabilities set forth
126 in section nineteen, issued by the commission or by
127 its administrator or other officer, agent or employee,
128 under delegated authority from the commission, to
129 any person, firm or corporation to manufacture, sell,

130 transport, deliver, or purchase any alcoholic beverage
131 of the kind, in the manner, and in the premises
132 described in such authorization.

MASSACHUSETTS ALCOHOLIC BEVERAGES CORPORATION.

133 *Section 2.* The commission, after its organization,
134 shall take steps, with the aid and advice of the
135 attorney general and of the commissioner of corporations
136 and taxation, to organize a corporation
137 to be known as the Massachusetts Alcoholic Beverages
138 Corporation. The commission or its nominees
139 may act as the associates to form the corporation
140 and to receive and hold the charter until its entire
141 capital stock has been subscribed and such portion
142 thereof as the commission deems necessary has been
143 paid in. Whenever the articles of association of
144 the proposed corporation are approved by the attorney
145 general and the commissioner of corporations
146 and taxation as in conformity with the purpose and
147 provisions in this act set forth, the state secretary
148 shall issue to the corporation a charter under the
149 great seal of the commonwealth.

150 The board of directors shall consist of nine persons
151 chosen annually from and by the stockholders,
152 but no person chosen as a director shall act as such
153 until his election shall have been approved by the
154 commission.

155 *Section 3.* The capital stock of the corporation
156 shall be fixed by the commission at not over five
157 million dollars, divided into shares of a par value
158 of one hundred dollars each, and may be increased
159 from time to time by such amounts as the commission
160 shall in each instance approve. The original
161 capital stock as so fixed and any increases thereof

162 shall be offered for public subscription at par. The
163 commission may reject any subscription by any per-
164 son whom it believes to be interested in the manu-
165 facture or sale of any alcoholic beverages, or otherwise
166 not of advantage to the corporate purposes of the
167 corporation or to the policy and objects of this act.
168 It may also allot stock to subscribers for less amounts
169 than those subscribed, and may give preference in
170 the allotment of stock to small subscribers or to
171 subscribers whose membership will in its opinion
172 result in a widespread and general representation of
173 all sections of the commonwealth and all lines of
174 industry and vocation of its citizens. Stock shall be
175 transferable only to such transferees as the commis-
176 sion shall approve.

PROFITS OF CORPORATION.

177 *Section 4.* From the profits of the corporation,
178 the directors may from time to time declare divi-
179 dends, not exceeding the rate of eight per centum
180 per annum until the completion of the reserve fund
181 hereinafter mentioned, and after the completion of
182 said reserve fund and while its integrity is unim-
183 paired not exceeding the rate of five per centum
184 per annum, upon the capital stock of the corpora-
185 tion actually paid in at the time of the declaration
186 of the dividend. Such dividends shall be cumula-
187 tive to the extent that they may not be declared
188 and paid at the permitted rate in any year, and to
189 such extent may be paid from the profits of subse-
190 quent years. The directors shall also from such
191 profits, so far as adequate therefor, reserve at the
192 end of each year such an amount approved by the
193 commission as shall not exceed ten per centum

194 upon the capital stock then actually paid in. This
195 reserve shall be known as the Massachusetts Alco-
196 holic Beverages Corporation Redemption Reserve
197 Fund, and the annual amount set up and approved
198 as aforesaid shall be forthwith paid over to the
199 state treasurer and by him held and invested in the
200 manner provided by law with respect to other
201 funds over which the commonwealth has exclusive
202 control, except that the same shall, whenever and
203 to the extent requested by the commission, be used
204 by the state treasurer in the purchase of shares of
205 the corporation's capital stock at a price per share
206 not exceeding the amount actually paid in thereon
207 in cash and any cumulative and unpaid dividends
208 thereon at the permitted rates above provided.

209 Except in so far as used in such purchase of stock,
210 said fund and all receipts from investment thereof
211 shall be accumulated until it equals in the judgment
212 of the state treasurer at least the aggregate amount
213 paid in upon the outstanding capital stock of the
214 corporation. Thereafter no profits shall be set
215 aside for addition to the reserve fund and all the
216 income of the latter shall be retained by the com-
217 monwealth and applied as hereinafter provided with
218 respect to other receipts from the control of alco-
219 holic beverages; provided, however, that in case of
220 any increase in the amount of the paid in capital
221 stock of the corporation, the reserve fund and the
222 income thereof shall be further accumulated to
223 equal the amount of such increase. All profits of the
224 corporation, as determined by the commission in
225 excess of cumulative dividends at the rates herein-
226 before authorized upon its capital stock, and in ex-
227 cess of the amounts set aside for said redemption

228 reserve fund, and in excess of such amounts as the
229 commission may authorize to be retained for work-
230 ing capital of the corporation, shall be paid over by
231 the treasurer of the corporation to the treasurer of
232 the commonwealth to be applied as hereinafter pro-
233 vided with respect to other receipts from the control
234 of alcoholic beverages.

COMMONWEALTH'S OPTION ON STOCK.

235 *Section 5.* The commonwealth shall at all times
236 have the option and power, which may be exercised
237 through the general court by appropriate legislation
238 approved by the governor, to purchase and acquire
239 all the capital stock of the corporation at the amount
240 per share actually paid in thereon together with the
241 difference, if any, between the amount of dividends
242 actually paid upon the shares of stock so acquired
243 and the amount of dividends at the respective rates
244 authorized in section four upon the amount of capital
245 so paid in from the dates of such payment to the
246 date of acquisition by the commonwealth. To make
247 such acquisition of all the outstanding stock of the
248 corporation, the principal of the Massachusetts Al-
249 coholic Beverages Corporation Redemption Reserve
250 Fund may be used; and such principal shall be used for
251 no other purpose prior to the exercise of said option
252 except for such partial purchases of stock as author-
253 ized in section four or for reduction in the amount
254 of capital stock as authorized in the following sec-
255 tion. Stock purchased and acquired through the
256 exercise of said option thereon shall be transferred
257 into the name of the commonwealth to be held and
258 disposed of as the general court, with the approval

259 of the governor, may by appropriate legislation
260 from time to time determine.

261 *Section 6.* Whenever the commission shall be of
262 opinion, and so determine, that by reason of changes
263 in the constitution or laws of the United States or
264 of this commonwealth, or by reason of a reduction
265 not deemed by the commission to be merely tem-
266 porary in the volume of the corporation's business,
267 the capital stock of the corporation is or is likely to
268 become in excess of the amount reasonably neces-
269 sary thereafter to conduct its business as authorized
270 in this act, the commission may from time to time
271 order a reduction in the amount of the corporation's
272 capital stock, and a corresponding reduction in the
273 par value of its shares, by repayment to its stock-
274 holders from said reserve fund of a specified part of
275 the amount actually then paid in upon each share
276 of such capital stock, and the state treasurer shall,
277 upon such order of the commission when approved
278 by the governor and council, make such payments
279 from the principal of said reserve fund. It shall be
280 the duty of the state treasurer to maintain at all
281 times said reserve fund, after its completion, at an
282 amount in his judgment at least equal to the then
283 outstanding and paid in capital of the corporation
284 and, in case of impairment of such principal through
285 poor investments or otherwise, to restore the same
286 from the income of the fund or from profits received
287 from the corporation before using such income or
288 profits for other purposes.

289 During the continuance of the corporation the
290 principal of said reserve fund shall not be used for
291 any purpose except for purchases of stock as pro-

292 vided in section four, for reduction of capital as
293 provided in this section, and for the exercise of the
294 option to purchase all the outstanding capital stock
295 of the corporation as provided in section five. Upon
296 the termination of the existence of the corporation
297 by forfeiture of charter, voluntary liquidation, which
298 shall be valid only if approved by vote of the com-
299 mission, or in any other manner, said principal of
300 the reserve fund shall be applied, so far as sufficient
301 and needed therefor, to repay to the stockholders the
302 amount then actually paid in on their shares of
303 stock and any accumulated and unpaid dividends.
304 After such payment, any balance of the reserve fund
305 shall become a part of the general fund of the com-
306 monwealth.

307 *Section 7.* For the purpose of preserving, pro-
308 moting, and providing for the public health, safety
309 and good order, the corporation is hereby given the
310 sole and exclusive power and right, subject to the
311 control and in accordance with the directions from
312 time to time given and the regulations from time to
313 time made and imposed by the commission respecting
314 the conduct of its business, to import into and to sell,
315 directly or through its selling agents, within the
316 commonwealth, in original packages, bottles or
317 other containers, intoxicating liquors, wines and
318 malt beverages, not to be drunk on the premises
319 where so sold; and similarly the sole and exclusive
320 right to buy for re-sale, and to sell, all intoxicating
321 liquors and wines made, or the process of making
322 which is completed, within the commonwealth,
323 whether from materials and ingredients produced
324 in or imported into the commonwealth, and in-
325 tended for sale to or use or consumption by any

326 persons other than the makers thereof, or members
327 of their families living with them, or their guests,
328 respectively.

329 *Section 8.* The corporation shall, subject to such
330 regulations as the commission may from time to
331 time prescribe, import, from any other state of the
332 United States or from any foreign country, into the
333 commonwealth, any kinds and brands of intoxicating
334 liquors, wines and malt beverages, which it may not
335 be in the usual course of its business importing or
336 carrying in stock, as it shall be requested so to im-
337 port by any selling agent, or, as respects malt bev-
338 erages, by any person licensed to sell malt bever-
339 ages in any manner, upon receipt, from the licensee
340 making such request, of a deposit of cash, a bond
341 with satisfactory sureties, or other security deemed
342 by the corporation sufficient to cover the cost of
343 such imported alcoholic beverages including trans-
344 portation and overhead expense and United States
345 customs duty, if any, upon the intoxicating liquors,
346 wines or malt beverages included in such request.

CONTROL BY COMMISSION.

347 *Section 9.* The commission shall have general
348 supervision and control of the conduct of the affairs
349 and business of the corporation, including purchases
350 and sales of alcoholic beverages, number of em-
351 ployees, salaries, and other expenditures, shall at
352 all times have access to its records and books of
353 account, prescribe the method of keeping its ac-
354 counts, and in addition shall have all the power
355 with respect to the corporation, so far as pertinent,
356 which may be exercised by the department of pub-
357 lic utilities, the bank commissioner, and the insur-

358 ance commissioner, with respect to corporations
359 respectively subject to their jurisdiction.

INDIVIDUAL PERMITS FOR THE PURCHASE OF INTOXICATING
LIQUORS.

360 *Section 10.* The commission shall establish a
361 personal permits office in the city of Boston, and in
362 such other cities and towns as it may deem neces-
363 sary, or, instead of permanent offices in such other
364 cities and towns, may provide for periodic visits of
365 representatives of its personal permits office to such
366 cities and towns, or any of them, for the purpose of
367 issuing, in such forms as the commission may from
368 time to time prescribe, individual or personal per-
369 mits, valid for twelve months from their respective
370 dates of issue, or for such longer periods, multiples
371 of a year, as the commission may determine, for
372 the purchase of intoxicating liquors from selling
373 agents of the corporation. The fee for each permit
374 shall be one dollar for each year of the period dur-
375 ing which it is valid and shall be paid before the
376 permit is issued. Residents of the commonwealth
377 who have attained the age of twenty-one years, and
378 who certify that they have not been convicted of
379 the offence of drunkenness within one year prior
380 to the application for the permit, and are not at
381 the time of the application receiving financial or
382 other welfare or unemployment aid from any pub-
383 lic agency, or are not on parole or probation and
384 who furnish such other information as the commis-
385 sion may require, shall be entitled to receive, if the
386 certificates and information furnished by them re-
387 spectively are satisfactory to the commission, such
388 permits upon payment of the proper fees therefor.

389 The commission may make such regulations as it
390 deems just and proper for the renewal of permits for
391 further terms, including the requirement of such
392 information as it deems necessary to determine the
393 fitness of the applicant to receive such renewal of
394 his permit. Every permit shall be subject to sus-
395 pension, revocation or cancellation in the absolute
396 discretion of the commission whenever the holder
397 thereof shall have been convicted of drunkenness,
398 or of driving while drunk a motor vehicle upon any
399 public or private way, or of stealing any motor
400 vehicle, or of using any such vehicle in connection
401 with the commission of any felony, or in the un-
402 lawful transportation or sale of any alcoholic bev-
403 erages. The commission may, under such regula-
404 tions as it may adopt, provide for the issue of tem-
405 porary individual permits for the purchase of in-
406 toxicating liquors to persons not resident in the
407 commonwealth; and may authorize any licensed
408 innholder, conducting a hotel and holding a license
409 from the commission under section thirteen of this
410 act, to issue as agent of the commission such tempo-
411 rary individual permits to guests stopping in such
412 hotel or to other persons known to the innholder
413 to be non-residents and believed by him to be per-
414 sons of good reputation and character.

SALE OF INTOXICATING LIQUORS.

415 *Section 11.* The corporation may appoint a sell-
416 ing agent, subject to the approval thereof by the
417 commission, for the sale of intoxicating liquors in
418 sealed bottles, containers, or other original pack-
419 ages, and not to be drunk on the premises, in any
420 city or town which has voted to permit within its

421 territory the sale of alcoholic beverages, and in any
422 such city or town having a population of more
423 than five thousand people, may appoint such num-
424 ber of such selling agents, not more than one for
425 each five thousand of population therein, as it
426 deems necessary and as the commission shall from
427 time to time authorize, subject in every case to
428 the commission's approval of the designated ap-
429 pointees. In the case of each appointment the cor-
430 poration may determine the terms and manner of
431 compensation of the selling agent, but such terms
432 and manner shall be subject to modification and
433 change in any way by the commission that it may
434 deem proper or desirable to limit the compensation
435 to a reasonable profit and to lessen or eliminate any
436 inducement to the selling agent to increase the
437 quantity of sales either in the aggregate or to any
438 individual purchaser. The selling agent shall not
439 sell intoxicating liquors to any person except on
440 presentation of the purchaser's personal permit nor
441 without endorsing upon such permit the quantity,
442 kind, and price of his purchase and a duplicate
443 thereof upon the books or records of the selling
444 agent, and shall in addition comply with all regu-
445 lations, at the time in effect, made by the commis-
446 sion respecting such sales of intoxicating liquors.

447 The corporation itself and any such selling agent
448 may also sell intoxicating liquors for export from
449 this commonwealth into any state where the sale
450 of such liquors is not by law prohibited, and into
451 any foreign country.

452 The commission shall issue to each selling agent
453 when approved by it a license to sell intoxicating
454 liquors in accordance with the provisions hereof and

455 in such form as the commission may determine, and
456 upon delivery of such license, the selling agent shall
457 pay to the commission a license fee of one hundred
458 dollars for each shop or place of business desig-
459 nated in the license, or such larger amount as un-
460 der the circumstances of location, probable volume
461 of sales under this and the following section, or
462 actual volume of such sales in the previous year,
463 the commission shall deem just and proper.

SALE OF WINES NOT TO BE DRUNK ON THE PREMISES.

464 *Section 12.* Any duly appointed and licensed
465 selling agent of the corporation authorized to sell
466 intoxicating liquors may also sell wines, as defined
467 in this act, in sealed bottles, containers, or other
468 original packages, not to be drunk on the premises,
469 but no such sales shall be made to persons under
470 eighteen years of age.

SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON
THE PREMISES.

471 *Section 13.* Any duly licensed common victualer
472 owning or conducting a restaurant as defined in
473 this act in any city or town which has voted to
474 permit within its territory the sale of alcoholic
475 beverages, and any duly licensed innholder owning
476 and conducting a hotel as defined in this act in any
477 such city or town may be licensed by the commis-
478 sion to sell, between such hours as the commission
479 may from time to time fix, either generally, or sep-
480 arately for each licensee, to travelers, strangers, and
481 other patrons and customers not under eighteen
482 years of age, wines and malt beverages to be served
483 and drunk only in the dining room or dining rooms

484 of a restaurant or hotel, and in such other public
485 rooms of a hotel as the commission may in the
486 case of each hotel licensee deem reasonable and
487 proper, and approve in writing. Such sales may
488 also be made by licensed innholders to registered
489 guests occupying private rooms in their hotels,
490 respectively.

491 Any club as defined in this act may, when licensed
492 by the commission, sell wines and malt beverages,
493 only to its own members, and also, subject to regu-
494 lations made by the commission, to guests of mem-
495 bers, in the same manner and subject to the same
496 restrictions as hereinbefore provided with respect
497 to licensed innholders.

498 The commission may determine in the first in-
499 stance, when originally issuing and upon each an-
500 nual renewal of licenses under this section, the
501 amount of the license fee, in no case less than fifty
502 dollars, to be paid by each licensee respectively.
503 Before issuing a license to any applicant therefor
504 under this section, or before a renewal of such
505 license, the commission shall cause an examination
506 to be made of the premises of the applicant to
507 determine that such premises comply in all respects
508 with the appropriate definition of section one and
509 that the applicant is a person of good character
510 and reputation and with a good record in the city
511 or town in which he seeks a license hereunder.
512 Whenever in the opinion of the commission any
513 applicant fails to establish to its satisfaction his
514 compliance with the above requirements, or any
515 other reasonable requirements which it may from
516 time to time make with respect to licenses under
517 this section or the conduct of his business by any

518 licensee hereunder, or fails to maintain such com-
519 pliance, it may refuse to issue or to renew or,
520 if already issued, may suspend, revoke, or cancel
521 any license to such applicant. In case of suspen-
522 sion, revocation, or cancellation of license, no abate-
523 ment or refund of any part of the fee paid therefor
524 shall be made.

525 *Section 14.* A railroad corporation operating any
526 line of railroad within the commonwealth may sell,
527 in any dining car or club car of a train after leaving
528 and before reaching the terminal stops of such train,
529 wines and malt beverages to be drunk in such cars,
530 if the commission sees fit to issue a license to such
531 railroad corporation, the license fee for which shall
532 be not less than twenty dollars for each car to which
533 it applies. The commission may also issue licenses
534 to sell wines and malt beverages to the owner or
535 operator of any passenger vessel operating out of
536 any port of the commonwealth, under such regu-
537 lations as the commission may prescribe as to the
538 portions of the vessel in which the same may be
539 sold to be drunk while the vessel is under way.
540 The annual license fee for each vessel shall be deter-
541 mined by the commission as it shall deem proper in
542 view of the size and capacity of the vessel, the
543 nature and frequency of its trips, and other features
544 of its business deemed by the commission to be
545 pertinent. No sale shall be made on any train
546 before starting or after arriving at a terminal sta-
547 tion or upon a passenger vessel while tied up in any
548 port of the commonwealth.

549 Special licenses for the sale of wines and malt
550 beverages in a city or town which has voted to per-
551 mit within its territory the sale of alcoholic bever-

552 ages may be issued by the commission to the
553 responsible manager of any course of concerts
554 conducted by a corporation organized under sec-
555 tion two of chapter one hundred and eighty and
556 furnishing at such concerts light refreshments, at
557 tables only, in the hall or auditorium in which such
558 concerts are given; and to the responsible manager
559 of any banquet or public dinner given or served in
560 any building or dining room if the place where such
561 banquet or public dinner is given is not one in which
562 the sale of such alcoholic beverages is already li-
563 censed to be made. The fees for such special licenses
564 shall be fixed from time to time by the commission,
565 and need not be uniform.

SALES OF MALT BEVERAGES NOT TO BE DRUNK ON THE
PREMISES.

566 *Section 15.* The proprietor of any grocery, deli-
567 catessen or drug store, in any city or town which
568 has voted to permit within its territory the sale of
569 alcoholic beverages, may sell, in bottles or other
570 containers approved by the commission, malt bev-
571 erages, not to be drunk on the premises, upon being
572 licensed by the commission so to do, but no such
573 sales shall be made to persons under eighteen years
574 of age. The license fee shall be not less than
575 twenty dollars, nor more than two hundred dol-
576 lars, for each shop or other place of business desig-
577 nated in the license, the amount, in the case of
578 each such shop or place of business, being fixed
579 and subject to change from year to year by the
580 commission as it shall deem just and proper in
581 view of the location of the licensee's place of busi-
582 ness, his probable volume of sales, or of his actual

583 volume of sales in the previous year. The com-
584 mission may prescribe the hours within which the
585 sale of such malt beverages may be made and, if
586 the hours so fixed extend in its judgment beyond
587 the usual closing time of establishments engaged
588 in the same general kind of business and in the
589 same city or town as the licensee, the commission
590 may prescribe that only sales of such malt bever-
591 ages shall be made by the licensee during such
592 extended period of the day.

SALES BY DRUGGISTS.

593 *Section 16.* Except as he may be licensed as a
594 selling agent or for the sale of malt beverages not
595 to be drunk on the premises, a druggist who is a
596 registered pharmacist or has in his employ a reg-
597 istered pharmacist, and whether or not the sale of
598 alcoholic beverages is permitted in the city or town
599 in which his business is conducted, may, in the
600 discretion of the commission, be licensed to sell
601 alcoholic beverages only on the prescription of a
602 physician. Not more than one quart of any alco-
603 holic beverage shall be sold or delivered by any
604 druggist upon a prescription. Every such pre-
605 scription shall be retained by the druggist filling
606 the same and shall not be filled a second time. All
607 such prescriptions shall be retained for two years
608 and shall be available to the commission and its
609 agents for inspection.

MANUFACTURE OF ALCOHOLIC BEVERAGES.

610 *Section 17.* The commission may issue to indi-
611 viduals, and to partnerships composed solely of
612 individuals who are both citizens and residents, and

613 to corporations organized under the laws, of this
614 commonwealth, licenses to manufacture any one of
615 the three kinds of alcoholic beverages hereinbefore
616 defined in this act. The number of such licenses
617 for the manufacture of any specified kind of alco-
618 holic beverages shall be limited by the commission
619 so that the aggregate capacity, as determined by it,
620 of the licensees to manufacture the beverage therein
621 authorized shall not, in the opinion of the commis-
622 sion, exceed the aggregate quantity of such bever-
623 age required to supply the demand therefor in this
624 commonwealth, and the demand for export thereof
625 to other states to which export thereof and into
626 which the import thereof may lawfully be made,
627 and to foreign countries.

628 Manufacturers of intoxicating liquors and of
629 wines shall sell the same only to the corporation.
630 Manufacturers of malt beverages may sell the same
631 to common victualers, innholders, and clubs, to
632 proprietors of grocery, delicatessen, and drug stores,
633 to railroads and owners or operators of vessels, re-
634 spectively holding valid licenses from the com-
635 mission in accordance with the provisions of this
636 act, and may also sell such beverages for export
637 from this commonwealth into any state where the
638 sale of such liquors is not by law prohibited, and
639 into any foreign country. All alcoholic beverages
640 sold by any manufacturer thereof shall be sold and
641 delivered only in bottles filled and sealed by such
642 manufacturer upon his own premises, and in such
643 manner, and under such conditions, and with such
644 labels or other marks to identify the manufacturer,
645 as the commission shall from time to time prescribe
646 by regulations; provided, however, that sales of

647 malt beverages may be made in kegs, casks or bar-
648 rels to any common victualer, innholder or club,
649 licensed by the commission to sell such beverages
650 to be drunk on the premises, if the nature and
651 extent of the restaurant, hotel or club business of
652 such licensee is, in the judgment of the commission,
653 such as to justify the sale by such licensee of such
654 beverages by draft under such conditions as the
655 commission may from time to time by regulation
656 prescribe.

657 No sales shall be made by any manufacturer of
658 alcoholic beverages to any person other than the
659 corporation, except as herein authorized. Every
660 manufacturer of any alcoholic beverages shall keep
661 such records in such detail and affording such in-
662 formation as the commission may from time to time
663 prescribe, and shall file with the commission, when-
664 ever and as often as it may require, duplicates or
665 copies of such records, and the commission shall at
666 all times, through its designated officers or agents,
667 have access to all books, records and other docu-
668 ments of every licensed manufacturer relating to
669 the business which he is licensed hereunder to
670 conduct.

TRANSPORTATION.

671 *Section 18.* Any resident of the commonwealth
672 holding a valid personal permit under section ten
673 may transport, only for his own use and that of his
674 family and guests, any intoxicating liquors or wines,
675 the sale of which has been duly entered upon such
676 permit, and may, without such permit, but only for
677 such use, transport malt beverages. Selling agents
678 and licensees for the sale of malt beverages not to be

679 drunk on the premises may transport and deliver to
680 purchasers, within the cities or towns in which they
681 are respectively licensed to make such sales and
682 cities and towns contiguous thereto, alcoholic bev-
683 erages, ordered from and sold by them, and manu-
684 facturers of malt beverages may transport anywhere
685 in the commonwealth such beverages ordered from
686 and sold by them, in vehicles owned by them and
687 operated and under the control of themselves or of
688 their employees, provided that the owner of every
689 such vehicle shall have obtained for such vehicle
690 from the commission a vehicle permit for the trans-
691 portation of the sort of alcoholic beverages which
692 he is authorized to sell, and provided further that
693 every such employee shall have obtained from the
694 commission a driver's permit so to transport and
695 deliver for his licensed employer alcoholic beverages.
696 The fee for such vehicle and driver's permits shall
697 be one dollar each, and the permits shall be valid for
698 one year from their respective dates unless canceled
699 or revoked by the commission. Every such em-
700 ployee when engaged in such transportation or de-
701 livery shall carry the vehicle permit for the vehicle
702 operated by him and also his own driver's permit
703 and shall, upon demand of any constable, policeman,
704 member of the state police, or any uniformed em-
705 ployee of the commission or of the registry of motor
706 vehicles, produce such permits for inspection, and
707 failure to produce both permits shall constitute
708 prima facie evidence of unlawful transportation and
709 shall in the discretion of the commission be suf-
710 ficient cause for the revocation or cancellation of both
711 permits and of the employer's license to sell alcoholic
712 beverages.

713 *Section 18A.* Except as provided in the preced-
714 ing section, alcoholic beverages may be transported
715 within the commonwealth only by a railroad cor-
716 poration, or a person or corporation regularly or
717 lawfully conducting a general express business, and
718 in each case holding a transportation permit from
719 the commission valid for one year unless earlier
720 canceled or revoked. Other than railroad corpora-
721 tions, no person or corporation shall of right be
722 entitled to receive such a transportation permit,
723 but the same shall be issued by the commission to
724 such applicants only as the commission deems, upon
725 investigation of their character, record and repu-
726 tation, will conduct their transportation of alcoholic
727 beverages in accordance with the law and the regu-
728 lations from time to time prescribed by the com-
729 mission. The fee for each transportation permit
730 shall be five dollars.

731 All the provisions of the preceding sections re-
732 specting vehicle permits, drivers' permits, and per-
733 mits for delivery of alcoholic beverages, shall apply
734 to vehicles and employees of all holders of trans-
735 portation permits, excepting railroad corporations,
736 and to all selling agents and licensees for the sale
737 of malt beverages not to be drunk on the premises,
738 making any shipments or deliveries of alcoholic
739 beverages through such holders of transportation
740 permits. No shipment of any intoxicating liquors
741 by a selling agent shall be made through any
742 holder, including railroad corporations, of a trans-
743 portation permit except for delivery to the holder
744 of an individual permit issued under section ten,
745 nor unless such proposed consignee shall have either
746 brought or sent by mail, or otherwise, to the selling

747 agent his individual permit for endorsement thereon
748 of the purchase and sale of intoxicating liquors to
749 be shipped, and for such other record thereof by
750 the selling agent as may be required by law and by
751 regulations duly prescribed by the commission under
752 authority of this act. No shipment of any kind of
753 alcoholic beverages shall be made, by any licensee
754 for the sale thereof, for delivery in, or to any resi-
755 dent within, a city or town within which the sale
756 of alcoholic beverages has not been authorized in
757 accordance with this act, unless the proposed con-
758 signee and person seeking to purchase the same,
759 regardless of the kind of alcoholic beverages to be
760 purchased and transported, shall have first obtained,
761 and either brought or sent to the licensee from whom
762 such shipment is desired, an individual permit under
763 section ten. The commission may by regulation
764 impose such other terms, conditions, restrictions
765 and requirements concerning the sale or delivery
766 of alcoholic beverages to residents of cities and
767 towns within which the sale of such beverages is
768 not permitted, and with respect to the shipment
769 into and delivery within such cities and towns of
770 any such beverages, as the commission may from
771 time to time deem necessary or desirable in the pub-
772 lic interest to prevent the unlawful sale of alcoholic
773 beverages therein.

LICENSES FOR THE MANUFACTURE AND SALE, AND PERMITS
FOR THE TRANSPORTATION AND DELIVERY OF AL-
COHOLIC BEVERAGES.

774 *Section 19.* The terms "licenses" and "permits",
775 wherever employed as substantives in this act,
776 except in section ten relative to personal permits,

777 are used in their technical sense of a license or
778 permit revokable at pleasure and without any as-
779 signment of reasons therefor by the licensor, the
780 commonwealth, acting through the same officers
781 or agents and under the same delegated authority,
782 as authorized the issue of such licenses. The pro-
783 visions for the issue of licenses and permits here-
784 under imply no intention to create rights generally
785 for persons to engage or continue in the transaction
786 of the business authorized by the licenses or per-
787 mits respectively, but are adopted with a view only
788 to meet the reasonable demand of the public for
789 pure alcoholic beverages and, to that end, to provide,
790 in the opinion of the commission, an adequate
791 number of places at which the public may obtain,
792 in the manner and for the kind of use indicated,
793 the different sorts of alcoholic beverages for the
794 sale of which provision is made.

795 Whenever such provision, in the opinion of the
796 commission, has been made by it in any city or
797 town, the commission shall be under no obligation
798 to issue any additional licenses or permits of any
799 kind to any person in such city or town for the
800 manufacture, sale, transportation or delivery of
801 alcoholic beverages and no applicant therein shall
802 have any right to demand that such a license or
803 permit, in addition to those already authorized by
804 the commission therein, shall be issued to him.
805 No such licensee or permittee shall have any vested
806 or monetary right in the continuance of his license
807 or permit. Whenever it appears by sale of premises
808 in connection with which a license has been issued
809 by probate or bankruptcy proceedings, or otherwise,
810 that such license has acquired any monetary value

811 in excess of the license fee, the commission may
812 increase the amount of the license fee correspond-
813 ingly, notwithstanding any maximum limitation
814 herein upon fees for that class of licenses, or take
815 other action deemed by it appropriate to divest the
816 license of such monetary value or to make such value
817 inure to the benefit of the commonwealth instead
818 of the licensee or his estate or his assigns.

819 Whenever it shall appear to the commission that
820 the nature of the business, or of the equipment and
821 service, of any hotel, restaurant, or club no longer
822 satisfies the definition thereof contained in this act,
823 or that the same has become primarily and chiefly
824 a place for the sale and consumption of alcoholic
825 beverages, and that it is without genuine and sub-
826 stantial patronage for its supposed principal purpose
827 of providing food or food and lodging, or that al-
828 coholic beverages are being or have been sold and
829 served therein over, and drunk by customers stand-
830 ing at, a bar or counter, instead of at tables in the
831 dining or other rooms and quarters as contemplated
832 by or authorized under the provisions of this act,
833 it shall be the duty of the commission forthwith to
834 cancel the license of such hotel, restaurant or club.

REGULATIONS.

835 *Section 20.* The commission may, with the ap-
836 proval of the governor and council, make regulations
837 not inconsistent with the provisions of this act for
838 clarifying, carrying out, enforcing, and preventing
839 violation of, all and any of its provisions, and every
840 such regulation, when so approved, shall be printed
841 in full in one issue of some newspaper of general
842 circulation published in each of the cities of Boston,

843 New Bedford, Lowell, Worcester, Springfield and
844 Pittsfield, and from and after the date of such publi-
845 cation shall have the force and effect of law, unless
846 and until set aside by some court of competent juris-
847 diction, or revoked by the commission.

848 The commission shall, at least annually on or
849 before December thirty-first of each calendar year,
850 publish in a convenient pamphlet form all regulations
851 then in force, and shall furnish copies of such pamph-
852 lets to every licensee authorized under the provisions
853 of this act to sell alcoholic beverages.

LOANS OF MONEY OR CREDIT TO LICENSEES.

854 *Section 21.* It shall be unlawful for any selling
855 agent, any person licensed by the commission to sell
856 malt beverages not to be drunk on the premises, or
857 any proprietor of a restaurant or of a hotel or any
858 club licensed by the commission to sell wines or malt
859 beverages to be drunk on the premises, to borrow
860 money or receive credit, directly or indirectly, from
861 any manufacturer of alcoholic beverages, or from any
862 member of the family of such a manufacturer, or from
863 any stockholder in a corporation manufacturing such
864 beverages, and for any such manufacturer or any
865 member of the family of such manufacturer, or any
866 stockholder in a corporation manufacturing such
867 beverages, to lend money or otherwise extend credit,
868 directly or indirectly, to any such licensee of the com-
869 mission. The violation of this provision shall be
870 sufficient cause for the revocation of the license both
871 of the borrower and of the manufacturer if the latter
872 holds a license from the commission. The corpora-
873 tion, however, may, with the approval of the com-
874 mission, make loans or extend credit to any selling

875 agent or to the proprietor of any restaurant or hotel
876 holding a license from the commission.

ADVERTISING ALCOHOLIC BEVERAGES.

877 *Section 22.* No outdoor advertising of alcoholic
878 beverages shall be permitted except in such form and
879 containing only such pictorial and descriptive matter
880 as shall have first been submitted to the commission
881 or its representatives and approved by them as con-
882 sistent with the public interest.

TEMPERANCE EDUCATION.

883 *Section 23.* From the revenue received from the
884 profits of the corporation payable to the common-
885 wealth, and from license fees, the commission may,
886 with the approval of the department of education,
887 allocate annually to the cities and towns in the com-
888 monwealth, and the state treasurer shall, annually
889 on or before November twentieth, pay to the several
890 cities and towns the amounts so allocated, to be used
891 in connection with instruction as to the composition
892 and principal constituent elements, and as to the
893 effects upon the human system of the use, of the
894 various kinds of alcoholic beverages defined in this
895 act, as to the necessity of temperance in such use, as
896 to the desirability of making the use thereof incidental
897 to the consumption of food, and in other ways em-
898 phasizing the need and advantages of moderation and
899 temperance at all times in the use of such beverages.

ALIENS.

900 *Section 24.* No person who is not at the time of
901 his application a native born or naturalized Ameri-
902 can citizen shall be given a license for the sale of

903 intoxicating liquors or wines as a selling agent, or for
904 the sale of wines or malt beverages to be drunk on
905 the premises as a proprietor of a hotel or restaurant,
906 or for the sale of malt beverages not to be drunk on
907 the premises as the proprietor of a grocery, delica-
908 tessen or drug store, and no person not such an
909 American citizen shall be appointed as manager or
910 other principal representative of any licensee of the
911 three kinds above mentioned; provided, however,
912 that any alien, who has applied for and received his
913 first naturalization papers and who satisfies the
914 commission of his bona fide intentions to apply for
915 and take out his final papers, may in the discretion
916 of the commission be given a license which shall not
917 continue or be renewed beyond the date when such
918 final papers are obtainable by the applicant unless
919 he applies for and takes out the same.

920 No corporation, organized under the laws of the
921 Commonwealth or of any other state or foreign
922 country, shall be given a license to sell in any manner
923 any alcoholic beverages unless such corporation shall
924 have first appointed, in such manner as the commis-
925 sion by regulation prescribes, as manager or other
926 principal representative, a native born or naturalized
927 American citizen, and shall have vested in him by
928 properly authorized and executed written delegation
929 as full authority and control of the premises, described
930 in the license of such corporation, and of the con-
931 duct of all business therein relative to alcoholic
932 beverages as the licensee itself could in any way
933 have and exercise if it were a natural person resident
934 in the commonwealth, nor unless such manager or
935 representative is, with respect to his character,
936 record and reputation, satisfactory to the commission.

937 *Section 25.* Except as otherwise provided, all
938 amounts received by the commonwealth under any
939 provisions of this act from the profits of the corpora-
940 tion above the amount required to establish and
941 maintain the redemption reserve fund provided for
942 in section four, including the income of said reserve
943 fund not needed to complete and maintain the same
944 at the maximum amount required by section four, and
945 from license and individual and other permit fees,
946 shall be used and applied by the state treasurer for
947 the following purposes and shall be available there-
948 for without appropriation:

949 First. To defray the expenses of establishing and
950 maintaining the commission and of its performance
951 of the duties imposed upon it, and of its exercise of
952 the various powers and discretions delegated to and
953 reposed in it, by this act;

954 Second. To reimburse, or provide additional
955 revenue for, the department of health and the de-
956 partment of public safety, to such amount for each
957 as the governor and council shall determine, for
958 services of those departments respectively in passing
959 upon the purity and other features of alcoholic bev-
960 erages and in enforcing any provisions and prevent-
961 ing violations of this act;

962 Third. To promote education respecting the ef-
963 fects and use of alcoholic beverages as provided in
964 section twenty-three;

965 Fourth. The state treasurer and the commission
966 shall determine the amount of such receipts from
967 the three sources of (a) the profits of the corpora-
968 tion including any available income of the reserve
969 fund, (b) license and permit fees for the manufac-
970 ture, sale and transportation of alcoholic beverages,

971 and (c) fees for individual permits, and shall deduct
972 from the amount of receipts from each source such
973 proportion of the amount used under clauses first,
974 second and third above as the amount received
975 from that source bears to the total receipts from
976 all three sources; and one half of the balance re-
977 maining from the receipts under (a) shall be re-
978 tained by the treasurer for appropriation by the
979 general court, and the other half thereof shall be
980 paid by the state treasurer, on or before March
981 first, of the year following that in which such profits
982 were received by him, to the cities and towns of
983 the commonwealth in proportion to the population
984 of such cities and towns according to the last pre-
985 ceding United States or Massachusetts census; the
986 entire balance of the amount received by the state
987 treasurer in each year in fees for the manufacture,
988 sale and transportation of alcoholic beverages shall
989 be paid by him, on or before March first in the
990 year following the year in which such license fees were
991 received by him, to the several cities and towns in
992 which licenses for the sale of such beverages were
993 issued and in effect, making such payments to such
994 cities and towns respectively in proportion to the
995 amount of such license fees received for the sale of
996 such beverages in such cities and towns respectively;
997 and the entire balance of the amount received by
998 the state treasurer in each year in fees for individual
999 permits shall be paid and distributed by the state
1000 treasurer to and among the cities and towns of the
1001 commonwealth, on or before March first in the year
1002 following that in which such fees were received by
1003 him, in proportion to the amount of such fees re-
1004 ceived from the residents of such cities and towns
1005 respectively.

1006 *Section 26.* The state secretary shall cause to be
1007 placed on the official ballot used in the cities and
1008 towns at each biennial state election the following
1009 questions: —

1010 1. Shall selling agents be appointed and licensed
1011 in this city or town for the sale therein of intoxicat-
1012 ing liquors and wines under section eleven of chap-
1013 ter one hundred and thirty-eight of the General
1014 Laws, not to be drunk on the premises?

1015 2. Shall licenses be granted in this city or town
1016 for the sale therein of malt beverages by grocery,
1017 drug and delicatessen stores, not to be drunk on
1018 the premises?

1019 3. Shall licenses be granted in this city or town
1020 for the sale therein by hotels, restaurants and clubs
1021 of wines and malt beverages to be drunk on the
1022 premises?

1023 If a majority of the votes cast in a city or town
1024 in answer to question one are in the affirmative,
1025 such city or town shall be taken to have authorized,
1026 for the two calendar years next succeeding, the
1027 appointment and licensing of selling agents therein
1028 for the sale in such city or town, subject to the
1029 provisions of this chapter, of intoxicating liquors,
1030 wines and imported malt beverages, not to be
1031 drunk on the premises.

1032 If a majority of the votes cast in a city or town
1033 in answer to question two are in the affirmative,
1034 such city or town shall be taken to have authorized,
1035 for the two calendar years next succeeding, the
1036 sale, subject to the provisions of this chapter, by
1037 grocery, drug and delicatessen stores therein, of
1038 malt beverages, not to be drunk on the premises.

1039 If a majority of the votes cast in a city or town

1040 in answer to question three are in the affirmative,
1041 such city or town shall be taken to have authorized,
1042 for the two calendar years next succeeding, the
1043 sale, subject to the provisions of this chapter, by
1044 hotels, restaurants and clubs therein, of wines and
1045 malt beverages.

1046 *Section 27.* No selling agent or licensee for the
1047 sale of malt beverages not to be drunk on the
1048 premises shall sell, transport or deliver any alco-
1049 holic beverages on Sundays, legal holidays or days
1050 for state elections.

1051 *Section 28.* Whoever employs a minor under eight-
1052 een in handling beverages or packages containing
1053 such beverages in a brewery or bottling establish-
1054 ment in which such beverages are prepared for sale
1055 or offered for sale shall be punished by a fine of not
1056 less than fifty dollars or by imprisonment for not
1057 less than three months, or both.

1058 *Section 29.* The husband, wife, parent, child,
1059 guardian or employer of a person who has the habit
1060 of drinking intoxicating liquor to excess, or the
1061 mayor of the city or one of the selectmen of the
1062 town in which such person lives, may give notice in
1063 writing, signed by him or her, to any person request-
1064 ing him not to sell or deliver such liquor to the
1065 person having such habit; provided, that a copy
1066 of such notice is filed with the commission. If the
1067 person so notified at any time within twelve months
1068 after filing the copy thereof with the commission
1069 knowingly sells or delivers any such liquor to the
1070 person having such habit, or permits him to loiter
1071 on his premises, the person giving the notice may,
1072 in an action of tort, recover of the person notified
1073 such amount, not less than one hundred nor more

1074 than five hundred dollars, as may be assessed as
1075 damages; but an employer who gives such notice
1076 shall not recover unless he is injured in his person
1077 or property, and a druggist or apothecary shall not
1078 be liable hereunder for a sale made upon the pre-
1079 scription of a physician. A married woman may
1080 bring such action in her own name, and all damages
1081 recovered by her shall inure to her separate use.
1082 A mayor or selectman may bring such action in his
1083 own name for the benefit, at his election, of either
1084 the husband, wife, child, parent or guardian of the
1085 person having such habit. Upon the death of either
1086 party or of the person beneficially interested in the
1087 action, the action and right of action shall survive
1088 to or against or for the benefit of his executor or
1089 administrator. The person receiving a notice under
1090 the provisions of this section may within five days
1091 thereafter give notice in writing that he will require
1092 in writing further means of identification, and unless
1093 a description and photograph of the person having
1094 the habit of drinking intoxicating liquors to excess
1095 is furnished within five days after such notice,
1096 giving the age, residence, occupation and the name
1097 of the employer of such person, damages shall not
1098 be assessed as herein provided without proof that
1099 the individual was in fact known to the person
1100 notified.

1101 *Section 30.* The analyst or assistant analyst of
1102 the department of public health shall upon request
1103 make, free of charge, an analysis of all beverages
1104 sent to it by the commission, the selectmen of any
1105 town, or by police officers or other officers author-
1106 ized by law to make seizures of beverages, if the
1107 department is satisfied that the analysis requested

1108 is to be used in connection with the enforcement
1109 of the laws of the commonwealth. The said de-
1110 partment shall return to such commission, select-
1111 men, police or other officers, as soon as may be, a
1112 certificate, signed by the analyst or assistant an-
1113 alyst making such analysis, of the percentage of
1114 alcohol by weight at sixty degrees Fahrenheit
1115 which such samples of beverages contain. Such cer-
1116 tificate shall be prima facie evidence of the compo-
1117 sition and quality of the beverages to which it
1118 relates, and the court may take judicial notice of
1119 the signature of the analyst or the assistant ana-
1120 lyst, and of the fact that he is such.

1121 *Section 31.* A certificate shall accompany each
1122 sample of beverages sent for analysis by an officer
1123 to the department of public health stating by
1124 whom the beverages were seized, the date of the
1125 seizure and the name and residence of the officer
1126 who seized said beverages. Said department shall
1127 note upon said certificate the date of the receipt
1128 and the analysis of said beverages and the per-
1129 centage of the alcohol, as required by the preced-
1130 ing section. Said certificate may be in the follow-
1131 ing form:

88

CITY OF

(OR TOWN OF)

19

To the Department of Public Health.

SIRS:—I send you herewith a sample of taken from
beverages seized by me (date) 19 .

Ascertain the percentage of alcohol it contains, by weight, at sixty degrees Fahrenheit, and return to me a certificate herewith upon the annexed form.

Constable of
Police Officer of

COMMONWEALTH OF MASSACHUSETTS.

DEPARTMENT OF PUBLIC HEALTH,
BOSTON, 19 .

This is to certify that the received by this Department
with the above statement and analyzed by me contains
per cent of alcohol, by weight, at sixty degrees Fahrenheit.

Received 19 .
Analysis made 19 .

DEPARTMENT OF PUBLIC HEALTH,

By
Analyst.

1132 *Section 32.* The state secretary shall provide
1133 and cause officers to be supplied with a suitable
1134 number of the forms prescribed by the preceding
1135 section. The certificate of the department of pub-
1136 lic health, given substantially in the form herein-
1137 before set forth, shall be admitted as evidence on
1138 trials for the forfeiture of alcoholic beverages as
1139 to the composition and quality of the beverages
1140 to which it relates.

1141 *Section 33.* No person shall tamper with sam-
1142 ples of beverages taken as provided in section
1143 sixty-one or alter the statements made upon the
1144 forms or certificates aforesaid.

1145 *Section 34.* Any court or trial justice may cause
1146 beverages which have been seized under this chap-
1147 ter to be analyzed by a competent chemist, and
1148 the reasonable expense thereof, including a fee of
1149 not more than five dollars for each analysis, shall
1150 be taxed, allowed and paid like other expenses in
1151 criminal cases.

1152 *Section 35.* The delivery of alcoholic beverages
1153 in or from a building, booth, stand or other place,
1154 except a private dwelling house, or in or from a
1155 private dwelling house if any part thereof or its

1156 dependencies is used as an inn, eating house or
1157 shop of any kind, or other place of common resort,
1158 such delivery in either case being to a person not
1159 a resident therein, shall be prima facie evidence
1160 that such delivery is a sale.

1161 *Section 36.* If any placard, sign or advertise-
1162 ment is exposed from, maintained in or permitted
1163 to remain upon any vehicle, shop, stand, tenement,
1164 or any place of common resort, purporting or de-
1165 signed to announce the keeping in or upon said
1166 vehicle or any of said premises of alcoholic bever-
1167 ages, except in drug stores, it shall be prima facie
1168 evidence that such liquors are kept in or upon such
1169 vehicle or premises for sale.

1170 *Section 37.* If two persons of full age make
1171 complaint to a district court or trial justice that
1172 they have reason to believe and do believe that
1173 alcoholic beverages, described in the complaint,
1174 are kept or deposited by a person named therein
1175 in a store, shop, warehouse, building, vehicle,
1176 steamboat, vessel or place, and are intended for
1177 sale contrary to law, such court or justice, if it
1178 appears that there is probable cause to believe
1179 said complaint to be true, shall issue a search war-
1180 rant to a sheriff, deputy sheriff, city marshal, chief
1181 of police, deputy chief of police, deputy marshal,
1182 police officer or constable, commanding him to
1183 search the premises in which it is alleged that such
1184 beverages are deposited, and to seize such bever-
1185 ages, the vessels in which they are contained and
1186 all implements of sale and furniture used or kept
1187 and provided to be used in the illegal keeping or
1188 sale of such beverages, and securely keep the same
1189 until final action thereon, and return the warrant

1190 with his doings thereon, as soon as may be, to a
1191 court or trial justice having jurisdiction in the place
1192 in which such beverages are alleged to be kept or
1193 deposited.

1194 *Section 38.* A warrant shall not be issued for
1195 the search of a dwelling house, if no tavern, store,
1196 grocery, eating house or place of common resort is
1197 kept therein, unless one of the complainants makes
1198 oath that he has reason to believe and does believe
1199 that such beverages have been sold therein or
1200 taken therefrom for the purpose of being sold by
1201 the occupant, or by his consent or permission,
1202 contrary to law, within one month next before
1203 making such complaint, and are then kept therein
1204 for sale contrary to law by the person complained
1205 against. Such complainant shall state the facts
1206 and circumstances on which such belief is founded,
1207 and such allegations shall be recited in the com-
1208 plaint and warrant.

1209 *Section 39.* The complaint shall particularly
1210 designate the building, structure and place to be
1211 searched, the beverages to be seized, the person by
1212 whom they are owned, kept or possessed and in-
1213 tended for sale, and shall allege the intent of such
1214 person to sell the same contrary to law. The
1215 warrant shall allege that probable cause has been
1216 shown for the issuing thereof; and the place to be
1217 searched, the beverages to be seized, and the per-
1218 son believed to be the owner, possessor, or keeper
1219 of such beverages, intending to sell the same con-
1220 trary to law, shall be designated therein with the
1221 same particularity as in the complaint and the
1222 complainants shall be summoned to appear as
1223 witnesses.

1224 *Section 40.* The officer to whom the warrant is
1225 committed shall search the premises and seize the
1226 beverages described in the warrant, the casks or
1227 other vessels in which it is contained, and all im-
1228 plements of sale and furniture used or kept and
1229 provided to be used in the illegal keeping or sale of
1230 such beverages, if they are found in or upon said
1231 premises, and shall convey the same to some place
1232 of security, where he shall keep the beverages and
1233 vessels until final action is had thereon.

1234 *Section 41.* A sheriff, deputy sheriff, city marshal,
1235 chief of police, deputy chief of police, deputy or
1236 assistant marshal, police officer or constable who,
1237 without a search warrant duly committed to him,
1238 searches for or seizes alcoholic beverages in a dwell-
1239 ing shall be punished by a fine of not less than
1240 five nor more than fifty dollars.

1241 *Section 42.* If, in the opinion of the court or
1242 trial justice before whom the warrant is returned,
1243 the value of the beverages seized and the vessels
1244 containing them does not exceed one thousand
1245 dollars, a notice, under seal, and signed by the
1246 justice or the clerk of said court, or by the trial
1247 justice, shall be issued within twenty-four hours
1248 after such seizure, commanding the person com-
1249 plained against as the keeper of the beverages
1250 seized and all other persons who claim any interest
1251 therein or in the casks or vessels containing the
1252 same to appear before said court or trial justice,
1253 at a time and place therein named, to answer to
1254 said complaint and show cause why such bever-
1255 ages and the vessels containing them should not
1256 be forfeited.

1257 *Section 43.* The notice shall contain a description

1258 of the number and kind of vessels, the quantity and
1259 kind of beverages seized, as nearly as may be, and
1260 shall state when and where they were seized. It
1261 shall, not less than fourteen days before the time
1262 appointed for the trial, be served by a sheriff, deputy
1263 sheriff, constable or police officer upon the person
1264 charged with being the keeper thereof by leaving an
1265 attested copy thereof with him personally or at his
1266 usual place of abode, if he is an inhabitant of the
1267 commonwealth, and by posting an attested copy on
1268 the building in which the beverages were seized, if
1269 they were found in a building; otherwise in a public
1270 place in the city or town in which the beverages were
1271 seized.

1272 *Section 44.* If, at the time appointed for trial,
1273 said notice has not been duly served, or other suffi-
1274 cient cause appears, the trial may be postponed to
1275 some other day and place, and such further notice
1276 issued as shall supply any defect in the previous
1277 notice; and time and opportunity for trial and
1278 defence shall be given to persons interested.

1279 *Section 45.* At the time and place designated in
1280 the notice, the person complained against, or any
1281 person claiming an interest in the beverages and
1282 vessel seized, or any part thereof, may appear and
1283 make his claim verbally or in writing, and a record
1284 of his appearance and claim shall be made, and he
1285 shall be admitted as a party to the trial. Whether a
1286 claim as aforesaid is made or not, the court or trial
1287 justice shall proceed to try, hear and determine the
1288 allegations of such complaint, and whether said
1289 beverages and vessels, or any part thereof, are for-
1290 feited. If it appears that the beverages, or any part
1291 thereof, were at the time of making the complaint

1292 owned or kept by the person alleged therein for the
1293 purpose of being sold in violation of law, the court
1294 or trial justice shall render judgment that such and
1295 so much of the beverages so seized as were so unlaw-
1296 fully kept, and the vessels in which they are con-
1297 tained, shall, except as hereinafter provided, be
1298 forfeited to the commonwealth. If a motor vehicle
1299 is seized under the provisions of this chapter and is
1300 held to be a container or implement of sale of
1301 beverages contrary to law, the court or trial justice
1302 shall, unless good cause to the contrary is shown,
1303 order a sale of such motor vehicle by public auction
1304 and the officer making the sale, after deducting the
1305 expense of keeping the motor vehicle, the fee for the
1306 seizure and the cost of the sale, shall pay all liens,
1307 according to their priorities, which are established,
1308 by intervention or otherwise, at said trial or in other
1309 proceedings brought for said purpose, as being bona
1310 fide and as having been created without the lienor
1311 having any notice that such motor vehicle was being
1312 used or was to be used as a container or implement
1313 of sale of beverages contrary to law. The balance,
1314 if any, of the proceeds of the sale shall be forfeited
1315 to the commonwealth and shall be paid by said
1316 officer into its treasury. All liens against any motor
1317 vehicle sold under the provisions of this section shall
1318 be transferred from said motor vehicle to the pro-
1319 ceeds of its sale.

1320 *Section 46.* Any beverages and vessels so for-
1321 feited shall, by authority of the written order of
1322 the court or trial justice, be forwarded to the com-
1323 missioner of public safety, who upon receipt of the
1324 same shall notify said court or justice thereof. If,
1325 in the judgment of the commissioner, it is for the

1326 best interests of the commonwealth that such bev-
1327 erages and vessels be destroyed, he shall destroy or
1328 cause the destruction of such beverages and vessels,
1329 but if, in his judgment it is for the best interests of
1330 the commonwealth to sell the same, he shall cause
1331 the same to be sold, or he may deliver such beverages
1332 to any department or agency of the commonwealth
1333 for medical, mechanical or scientific uses: provided,
1334 that such sale or delivery shall be in accordance with
1335 and subject to such federal laws and regulations as
1336 may be applicable. The proceeds of such sales shall
1337 be paid into the treasury of the commonwealth.
1338 The officer who serves said order of the court or
1339 justice shall be allowed therefor fifty cents, but shall
1340 not be entitled to receive any traveling fees or mile-
1341 age on account of the service thereof.

1342 *Section 47.* If it is not proved on the trial that
1343 all or part of the beverages seized was kept or de-
1344 posited for sale contrary to law, the court or trial
1345 justice shall issue a written order to the officer
1346 having the same in custody to return so much
1347 thereof as was not proved to be so kept or deposited
1348 and the vessels in which it is contained, to the place
1349 as nearly as may be from which it was taken, or to
1350 deliver it to the person entitled to receive it. After
1351 executing such order, the officer shall return it to the
1352 court or trial justice with his doings endorsed
1353 thereon.

1354 *Section 48.* All implements of sale and furniture
1355 seized under sections thirty-seven and forty shall be
1356 forfeited and disposed of in the manner provided for
1357 the forfeiture and disposition of alcoholic beverages;
1358 but the court or trial justice may, if it is deemed to
1359 be for the interest of the commonwealth, order the

1360 destruction or sale of said property by any officer
1361 qualified to serve criminal process and the proceeds
1362 of a sale thereof shall be paid over to the county;
1363 and said officer shall make return of the order for
1364 such destruction or sale and his doings thereon to
1365 the court or justice issuing the same. The provi-
1366 sions of this section shall not apply to a motor ve-
1367 hicle if seized and held to be an implement of sale
1368 as aforesaid, but the disposition of such a motor
1369 vehicle shall be governed by the provisions of section
1370 forty-five.

1371 *Section 49.* If no person appears and is admitted
1372 as a party as aforesaid, or if judgment is rendered
1373 in favor of all the claimants who appear, the cost of
1374 the proceedings shall be paid as in other criminal
1375 cases. If only one party appearing fails to sustain
1376 his claim, he shall pay all the costs except the ex-
1377 pense of seizing and keeping the beverages, and an
1378 execution shall be issued against him therefor. If
1379 judgment is rendered against two or more claimants
1380 of distinct interests in the beverages, the costs shall,
1381 according to the discretion of the court or trial
1382 justice, be apportioned among such parties, and
1383 executions shall be issued against them severally.
1384 If such execution is not forthwith paid, the defend-
1385 ant therein named shall be committed to jail, and
1386 shall not be discharged therefrom until he has paid
1387 the same and the costs of commitment, or until he
1388 has been imprisoned thirty days.

1389 *Section 50.* A claimant whose claim is not al-
1390 lowed as aforesaid, and the person complained
1391 against, shall each have the same right of appeal to
1392 the superior court as if he had been convicted of
1393 crime; but before his appeal is allowed he shall

1394 recognize to the commonwealth in the sum of two
1395 hundred dollars, with sufficient surety or sureties,
1396 to prosecute his appeal to the superior court and
1397 to abide the sentence of the court thereon. Upon
1398 such appeal, any question of fact shall be tried by
1399 a jury. On the judgment of the court after verdict,
1400 whether a forfeiture of the whole or any part of the
1401 beverages and vessels seized, or otherwise, similar
1402 proceedings shall be had as are directed in the five
1403 preceding sections.

1404 *Section 51.* If, in the opinion of the court or trial
1405 justice before whom a warrant under which beverages
1406 have been seized is returnable, the value of the
1407 beverages seized with the vessels containing the
1408 same exceeds one thousand dollars, a notice shall
1409 be issued and served as directed in sections forty-
1410 two and forty-three, except that it shall be made
1411 returnable to the sitting of the superior court for
1412 criminal business to be held in the county next after
1413 the expiration of fourteen days from the time of
1414 issuing the notice. The superior court shall have
1415 jurisdiction of the case, and may proceed therein
1416 in the manner directed in sections forty-four to
1417 forty-seven, inclusive, and forty-nine, as nearly as
1418 may be, and with the jury, upon any issue of facts
1419 presented by the claimant or directed by the
1420 court.

1421 *Section 52.* A mayor, alderman, selectman,
1422 deputy sheriff, chief of police, deputy chief of
1423 police, city marshal, deputy or assistant marshal,
1424 police officer or constable, in his city or town, or,
1425 in the county of Dukes or Nantucket, the sheriff
1426 anywhere within his county, may without a war-
1427 rant arrest any person whom he finds in the act of

1428 illegally selling, transporting, distributing or deliv-
1429 ering alcoholic beverages, and seize the beverages,
1430 vessels and implements of sale in the possession of
1431 such person, and detain them until warrants can
1432 be procured against such person, and for the seizure
1433 of said beverages, vessels and implements, under
1434 this chapter. Such officers shall enforce or cause
1435 to be enforced the penalties provided by law against
1436 every person who is guilty of a violation of any law
1437 relative to the sale of intoxicating beverages of
1438 which they can obtain reasonable proof.

1439 *Section 53.* A complaint or indictment for the
1440 violation of any provision of law relative to alco-
1441 holic beverages shall not, unless the purposes of
1442 justice require such disposition, be placed on file or
1443 disposed of except by trial and judgment according
1444 to the regular course of criminal proceedings. It
1445 shall be otherwise disposed of only upon motion in
1446 writing stating specifically the reasons therefor and
1447 verified by affidavit if facts are relied on. If the
1448 court or magistrate certifies in writing that he is
1449 satisfied that the cause relied on exists and that the
1450 interests of public justice require the allowance
1451 thereof, such motion shall be allowed and said
1452 certificate shall be filed in the case.

1453 *Section 54.* Upon the conviction of a holder of
1454 a license for the sale of alcoholic beverages of the
1455 violation of any law relative to the business he is
1456 licensed to pursue, the court in which or the mag-
1457 istrate before whom he has been convicted shall
1458 send to the authorities which issued the license a
1459 certificate under seal, showing the time and place
1460 of such conviction.

1461 *Section 55.* Upon the conviction of a person of

1462 the illegal keeping or sale of alcoholic beverages, the
1463 court or magistrate by whom he has been con-
1464 victed shall issue and cause to be served upon the
1465 owner of the building, or agent of such owner in
1466 charge of the building, used for such illegal keep-
1467 ing or sale, if he resides within the commonwealth
1468 and is not the person so convicted, a written notice
1469 that the tenant of said building has been convicted
1470 as aforesaid; and a return thereof shall be made
1471 to the court or magistrate issuing it. Such notice,
1472 so served, shall be deemed to be due and sufficient
1473 notice under section twenty of chapter one hun-
1474 dred and thirty-nine.

1475 *Section 56.* The forms heretofore in use may
1476 continue to be used in prosecutions under this
1477 chapter, and if substantially followed shall be
1478 deemed sufficient to fully and plainly, substantially
1479 and formally describe the several offences in each
1480 of them set forth, and to authorize the lawful do-
1481 ings of the officers acting by virtue of the war-
1482 rants issued in substantial conformity therewith;
1483 but this section shall not exclude the use of other
1484 suitable forms.

1485 *Section 57.* All alcoholic beverages which are
1486 kept for sale contrary to law and the implements
1487 and vessels actually used in selling and keeping the
1488 same are declared to be common nuisances.

1489 *Section 58.* All buildings or places used by clubs
1490 for the purpose of selling, distributing or dispensing
1491 alcoholic beverages to their members or others shall
1492 be deemed common nuisances unless duly licensed
1493 under this chapter. Whoever keeps or maintains,
1494 or assists in keeping or maintaining, such a com-
1495 mon nuisance, shall be punished by a fine of not

1496 less than fifty nor more than one hundred dollars
1497 and by imprisonment for not less than three nor
1498 more than twelve months.

1499 *Section 59.* No person shall sell, or expose, or
1500 keep for sale, or transport, alcoholic beverages,
1501 except as authorized in this chapter.

1502 *Section 60.* A violation by any person of any
1503 provision of this chapter for which a specific pen-
1504 alty is not imposed or a violation by a licensee of
1505 any provision of his license shall be punished by a
1506 fine of not less than fifty nor more than five hun-
1507 dred dollars and by imprisonment for not less than
1508 one nor more than six months.

1509 *Section 61.* The officers and agents of the com-
1510 mission, or any police officer or constable specially
1511 authorized by any of them, may at any time enter
1512 upon the premises of a person who is licensed under
1513 this chapter, to ascertain the manner in which such
1514 person conducts his business and to preserve order.
1515 Such police officer or constable may at any time
1516 take samples for analysis from any beverages kept
1517 on such premises, and the vessel or vessels con-
1518 taining such samples shall be sealed on the premises
1519 by the seal of the vendor, and shall remain so
1520 sealed until presented to the department of public
1521 health for analysis and duplicate samples shall be
1522 left with the dealer.

1523 *Section 62.* The commission, after notice to the
1524 licensee and reasonable opportunity for him to be
1525 heard by it, may declare his license forfeited, or
1526 may suspend his license for such period of time as
1527 it may deem proper, upon satisfactory proof that
1528 he has violated or permitted a violation of any
1529 condition thereof, or any law of the commonwealth.

1530 If the license is declared to have been forfeited,
1531 the licensee shall be disqualified to receive a license
1532 for one year after the expiration of the term of the
1533 license so forfeited, and if he is the owner of the
1534 premises described in such forfeited license, no
1535 license shall be issued to be exercised on said
1536 premises for the residue of the term thereof.

1 SECTION 4. Local licensing boards and commis-
2 sions shall continue to be vested with all the power
3 and authority vested in them immediately prior to
4 the passage of this act, except the power to grant
5 licenses for the sale of certain non-intoxicating
6 beverages, notwithstanding any provision of this
7 act.

1 SECTION 5. *Validity of Act.* — If any section or
2 provision of this act shall be held to be invalid, it
3 is hereby provided that all other provisions of this
4 act which are not expressly held to be invalid shall
5 continue in full force and effect.

1 SECTION 6. Chapter one hundred and thirty-
2 eight of the General Laws is hereby amended by
3 striking out the title and inserting in place thereof
4 the following: — COMMERCIAL ALCOHOL.

1 SECTION 7. Section thirty-nine of chapter one
2 hundred and thirty-eight of the General Laws is
3 hereby amended by striking out, in the second line,
4 the words "of the fifth class", — so as to read as
5 follows: — *Section 39.* The licensing authorities of
6 a city or town may annually grant a license, for the
7 sale of pure alcohol for mechanical, manufacturing

8 or chemical purposes only, to a dealer in paints or
9 in chemicals who applies therefor, if it appears that
10 the applicant is a proper person to receive such
11 license and that he is actually carrying on business
12 as a dealer in paints or chemicals.

1 SECTION 8. Section forty of said chapter one
2 hundred and thirty-eight is hereby amended by
3 striking out, in the first line, the words "A license
4 of the fifth class" and inserting in place thereof the
5 words: — Such a license, — so as to read as follows:
6 — *Section 40.* Such a license shall become null and
7 void without any process or decree if the licensee
8 ceases to carry on the business of dealing in paints
9 or chemicals.

1 SECTION 9. Said chapter one hundred and
2 thirty-eight is hereby further amended by striking
3 out section eighty-six and inserting in place thereof
4 the following: —

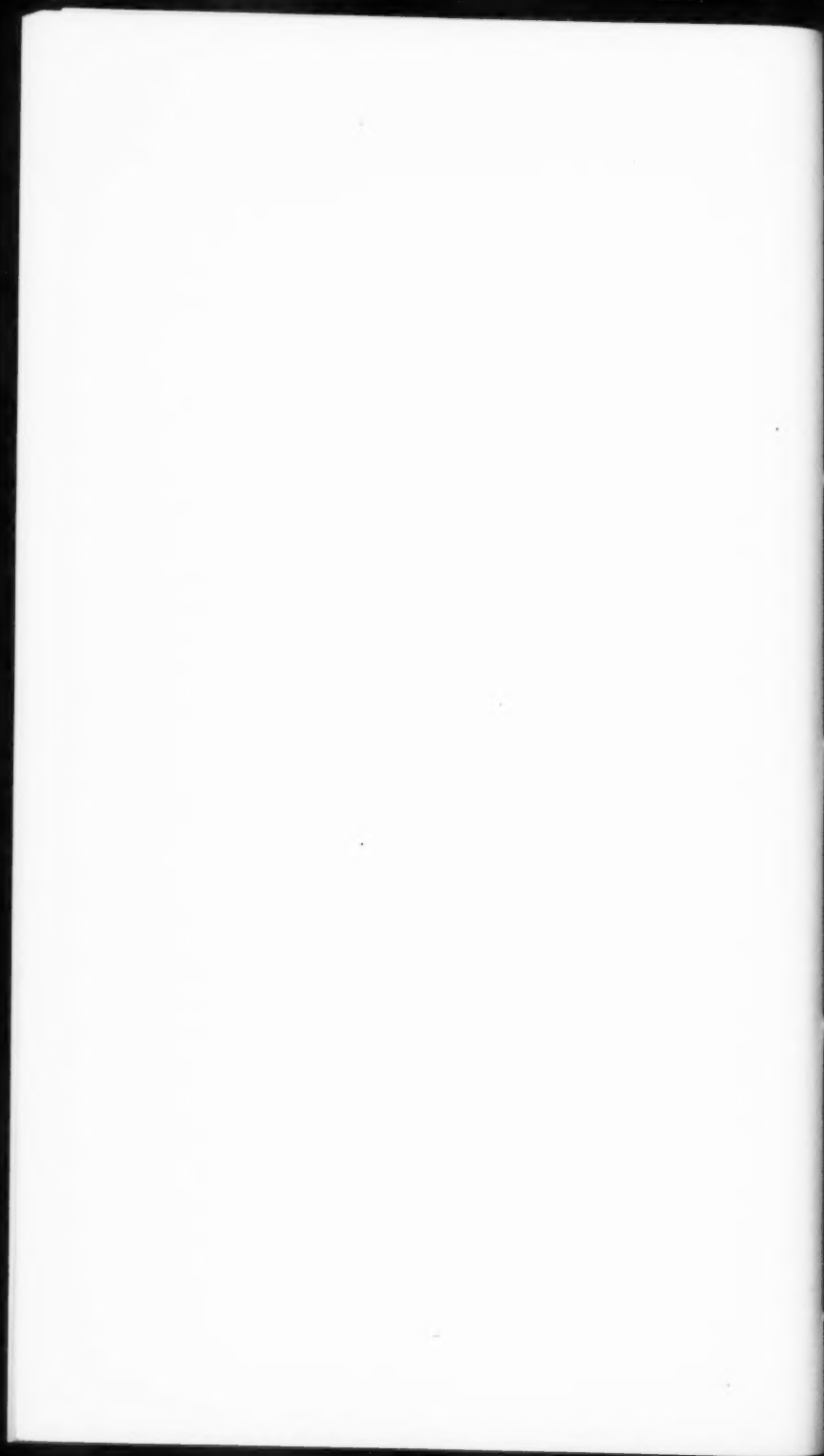
5 *Section 86.* Whoever violates any provision of
6 this chapter or conducts a business for which a
7 license is required hereunder, without such a license,
8 shall be punished by a fine of not less than fifty nor
9 more than five hundred dollars, or by imprisonment
10 for not less than one nor more than six months, or
11 by both.

1 SECTION 10. Sections one to thirty-three, in-
2 clusive, forty-two to eighty-five, inclusive, and
3 eighty-seven to eighty-nine, inclusive, of said chap-
4 ter one hundred and thirty-eight are hereby re-
5 pealed.

1 SECTION 11. This act shall take effect in its
2 entirety, upon the ratification by the necessary
3 number of states of the pending amendment to the
4 constitution of the United States repealing in part
5 the eighteenth amendment thereto; but sections
6 one, two, four and five of this act and all other pro-
7 visions thereof, and so much as provides for the
8 organization of the Massachusetts Alcoholic Bever-
9 ages Corporation and to the manufacture, sale, and
10 transportation, and licenses and permits therefor,
11 of malt beverages as hereinafter defined, and to the
12 export therefrom of such beverages made therein,
13 to the repeal of all provisions of said chapter one
14 hundred and thirty-eight relative to the sale, and
15 licenses for such sale, of certain non-intoxicating
16 beverages, and to the powers and jurisdiction of said
17 commission and corporation in relation to such
18 beverages, shall take effect as soon after the passage
19 of this act as legislation of congress modifying the
20 laws enacted to enforce the said eighteenth amend-
21 ment shall have become effective, permitting the
22 manufacture, sale, and transportation of any malt
23 beverages of any alcoholic content greater than
24 one half of one per centum by volume, except that,
25 after the effective date of any such federal legisla-
26 tion, the definition of malt beverages in this act shall,
27 until ratification as aforesaid, state as the maximum
28 alcoholic content of such beverages three and two
29 tenths per cent by weight.

30 Pending the taking of the vote at the biennial
31 state election in the year nineteen hundred and
32 thirty-four, under subsection twenty-six of section
33 three of this act, as to whether licenses for the sale
34 of such malt beverages should be granted in any

35 city or town, the said commission may grant licenses
36 for the sale of such malt beverages as may be lawful
37 under said legislation of congress in any city or town
38 which voted, in the year nineteen hundred and
39 twenty-four, under the provisions of section eleven
40 of said chapter one hundred and thirty-eight, to
41 authorize the granting of licenses for the sale therein
42 of certain non-intoxicating beverages: provided,
43 that the aldermen or selectmen in any city or town
44 may order a special election therein for the purpose
45 of voting on the question of whether such licenses
46 should be so granted; and provided, further, that
47 the governor and council may order that at any
48 special state election taken prior to the biennial
49 state election in the year nineteen hundred and
50 thirty-four for any other purpose, the cities and
51 towns shall severally vote on the question as to
52 whether such licenses should be granted therein.



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